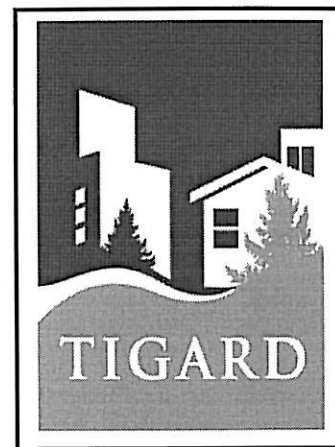




TIGARD CITY COUNCIL, LOCAL  
CONTRACT REVIEW BOARD, AND  
CITY CENTER DEVELOPMENT  
AGENCY MEETING

AUGUST 14, 2007 6:30 p.m.

TIGARD CITY HALL  
13125 SW HALL BLVD  
TIGARD, OR 97223



PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Citizen Communication items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are estimated; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. Business agenda items can be heard in any order after 7:30 p.m.

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A  
TIGARD CITY COUNCIL MEETING/LOCAL CONTRACT REVIEW BOARD  
AND CITY CENTER DEVELOPMENT AGENCY  
AUGUST 14, 2007

6:30 PM

- STUDY SESSION
  - > Council Discussion Regarding Washington County Coordinating Committee Transportation Funding Options – Mayor Dirksen
- EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

7:30 PM

1. BUSINESS MEETING
  - 1.1 Call to Order - City Council & Local Contract Review Board
  - 1.2 Roll Call
  - 1.3 Pledge of Allegiance
  - 1.4 Council Communications & Liaison Reports
  - 1.5 Call to Council and Staff for Non-Agenda Items
2. CITIZEN COMMUNICATION (Two Minutes or Less, Please)
  - Follow-up to Previous Citizen Communication
3. CONSENT AGENDA: These items are considered to be routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:
  - 3.1 Approve Council Minutes for May 22, 2007
  - 3.2 Receive and File:
    - a. Council Calendar
    - b. Tentative Agenda
  - 3.3 Approve an Intergovernmental Agreement with Metro Providing Tigard Police Department Support for the Enforcement of the Metro Illegal Disposal Ordinance
  - 3.4 Approve a Resolution Approving Budget Amendment #3 to the FY 2007-08 Budget Increasing Interagency Revenues in the General Fund by \$90,620 and Increasing Appropriations by \$90,620 in the Police budget within the Community Services Program, to reflect an Intergovernmental Agreement between Metro and the City of Tigard to Assign a Tigard Police Officer for Enforcement of the Metro Illegal Disposal Ordinance - Resolution No. 07-\_\_\_\_
  - 3.5 Consider a Mutual Aid and Assistance Agreement with the Oregon Water/Wastewater Agency Response Network (ORWARN)



- 3.6 Consider an Amendment to the Intergovernmental Agreement with Clean Water Services
  - 3.7 Consider a Third Amendment to the Joint Funding Agreement for the Integrated Water Resource Management (IWRM) Water Supply Feasibility Study (Tualatin Basin Water Supply Project)
  - 3.8 Local Contract Review Board: Award of Contract for Installation of a Traffic Signal at the Durham Road/108<sup>th</sup> Avenue Intersection
  - 3.9 Approve 2007 Justice Assistance Grant (JAG) Application
  - 3.10 Approve Memorandum of Understanding Regarding Potential Real Property Transaction – Fred Fields and Tigard-Tualatin School District (Hall Blvd. Bus Storage Site and Fields Property) – Resolution No. 07-\_\_\_\_\_
- *Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council has voted on those items which do not need discussion.*
4. REVIEW SECOND QUARTER COUNCIL GOAL UPDATE
    - a. Staff Report: Administration Department
    - b. Council Discussion
  5. APPROVE AN ORDINANCE AMENDING TIGARD MUNICIPAL CODE (TMC 5.04 – BUSINESS TAXES) MAKING CHANGES TO THE CURRENT BUSINESS TAX STRUCTURE
    - a. Staff Report: Police Department
    - b. Council Discussion
    - c. Council Consideration – Ordinance No. 07-\_\_\_\_\_
  6. CONSIDER A RESOLUTION MODIFYING THE FY 2007-08 CITYWIDE MASTER FEES AND CHARGES SCHEDULE TO INCORPORATE CHANGES TO THE CITY'S BUSINESS LICENSE
    - a. Staff Report: Police Department
    - b. Council Discussion
    - c. Council Consideration – Resolution No. 07-\_\_\_\_\_
  7. CONSIDER A RESOLUTION APPROVING BUDGET AMENDMENT #1 TO THE FY 2007-08 BUDGET INCREASING FEES AND CHARGES REVENUES IN THE GENERAL FUND BY \$353,000 AND INCREASING APPROPRIATIONS BY \$314,279 IN THE POLICE BUDGET WITHIN THE COMMUNITY SERVICES PROGRAM, TO REFLECT INCREASES IN THE BUSINESS TAX PERMIT FEES AND RELATED EXPENDITURES FOR A COMMERCIAL CRIME UNIT
    - a. Staff Report: Finance and Information Services Department
    - b. Council Discussion
    - c. Council Consideration – Resolution No. 07-\_\_\_\_\_

***Recess City Council Meeting (Motion by Council)***

***Convene City Center Development Agency (CCDA) Meeting***

- Call to Order: Chair Dirksen
  - Roll Call: Chair and Board Members of CCDA  
Chair and Commissioners of CCAC
8. DOWNTOWN URBAN DESIGN UPDATE – CITY CENTER ADVISORY COMMISSION (CCAC) AND PLANNING COMMISSION RECOMMENDATIONS
- a. Staff Report: Community Development Department
  - b. Council Discussion

***Adjourn City Center Development Agency (CCDA) Meeting (Motion by CCDA)***

***Reconvene City Council Meeting***

9. FINALIZE SANITARY SEWER REIMBURSEMENT DISTRICT NO. 37 (SW 87<sup>TH</sup> AND HALL BLVD.)
- a. Open Public Hearing
  - b. Declarations or Challenges
  - c. Staff Report: Community Development Department
  - d. Public Testimony
  - e. Staff Recommendation
  - f. Council Discussion
  - g. Close Public Hearing
  - h. Council Consideration: Resolution No. 07-\_\_\_\_
10. PUBLIC HEARING – CONSIDER REQUIREMENT THAT ALL CHIEF PETITIONERS FOR A CITY OF TIGARD INITIATIVE, REFERENDUM OR RECALL PROCESS BE ELECTORS OF THE CITY OF TIGARD
- a. Open Public Hearing
  - b. Declarations or Challenges
  - c. Staff Report: Administration Department
  - d. Public Testimony
    - Proponents
    - Opponents
  - e. Staff Recommendation
  - f. Council Questions
  - g. Close Public Hearing
  - h. Council Consideration: Ordinance No. 07-\_\_\_\_

11. PUBLIC HEARING – CONSIDER A RESOLUTION GRANTING AN EXEMPTION FROM COMPETITIVE BIDDING UNDER PUBLIC CONTRACTING RULE NO. 10.110 FOR THE CONSTRUCTION OF THE HITEON CREEK RIPARIAN ENHANCEMENT PROJECT AND AWARDED A CONTRACT FOR THIS PROJECT TO DEVELOPER DOUGLAS A. FRY
  - a. Open Public Hearing
  - b. Declarations or Challenges
  - c. Staff Report: Public Works Department
  - d. Public Testimony
    - Proponents
    - Opponents
  - e. Staff Recommendation
  - f. Council Questions
  - g. Close Public Hearing
  - h. Council Consideration: Resolution No. 07-\_\_\_\_\_
12. COUNCIL LIAISON REPORTS
13. NON AGENDA ITEMS
14. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
15. ADJOURNMENT

ADM/callty/ccca/2007/070814).doc

Agenda Item No. 3.1  
For Agenda of Aug 14, 2007



*Tigard City Council Meeting Minutes*

Date: May 22, 2007  
Time: 6:30 p.m.  
Place: Tigard City Hall, 13125 SW Hall Boulevard  
Tigard, Oregon  
Attending: Mayor Craig Dirksen Presiding  
Councilor Gretchen Buehner  
Councilor Nick Wilson  
Councilor Tom Woodruff  
Absent: Councilor Sherwood

Agenda Item	Discussion & Comments	Action Items (follow up)
Study Session	Mayor Dirksen called the meeting to order at 6:30 p.m.	
Executive Session	The Tigard City Council went into Executive Session at 6:31 p.m. under ORS 192.660 (2) (d) to discuss labor negotiations  Executive Session concluded at 6:55 p.m.	
Study Session (continued)  Review of Proposed Revisions to City Wide Personnel Policies	Human Resources Director Zodrow referred to the information submitted to the City Council regarding the proposed revisions to the city wide personnel policies. No changes were suggested by the City Council.	
Study Session (continued)  Briefing on Progress of Implementing Council Annexation Policy	Community Development Director Coffee introduced this agenda item and staff members Ron Bunch and Marissa Daniels.  Long Range Planning Manager Bunch reviewed the staff report for this agenda item. A copy of the agenda item summary is on file in the City Recorder's office.  On March 13, 2007, Council approved Resolution	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>No. 07-13 establishing policy to guide City action pertaining to annexation of unincorporated lands.</p> <p>Staff's approaches to implementing Resolution No. 07-13 were reviewed by Long Range Planning Manager Bunch and Assistant Planner Daniels:</p> <ul style="list-style-type: none"> <li>• Mailings – inviting property owners within 100 feet of the City limits to join the City of Tigard. Informational materials that would be included in the mailing were described by Long Range Planning Manager Bunch. The mailings will be sent in phases, about 100 at a time. This will help gauge interest and allow staff to manage responses.</li> <li>• Targeted Annexation Efforts – Property owners who have expressed an interest in annexing to the City of Tigard will be contacted.</li> <li>• Updated Web Page and Online Information – The City's web page will be updated with current information and a list of links to assist with addressing annexation questions and to respond to more detailed information requests.</li> <li>• Small Group Meetings – Staff will be available to meet with neighbor areas or groups of properties within the Tigard Urban Services area that have an interest in annexation. Letters will be sent to targeted properties.</li> </ul> <p>Long Range Planning Manager Bunch explained information shared will include the benefits of annexation stressing that a community is “stronger together.” He also noted the city application fee for annexation has been waived until July 1, 2008 and the property taxes for newly annexed areas would be phased in over three years. Information will also be provided that annexation would mean about 10 percent more in taxes as a City resident than as a County resident.</p> <p>There was discussion about island annexation limitations being proposed by the state legislature. Long Range Planning Manager Bunch noted that</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>island areas are not be served by the County effectively.</p> <p>Councilor Wilson favored a low-key approach, referring to the efforts over the last four years.</p> <p>Long Range Planning Manager Bunch said the first group to be approached would be those who have indicated they want to annex. There are some indicators that times have changed. The message will continue to be that ultimately city government is more beneficial and offers customized service. The message will be: “stronger together” and the benefits of being in the City.</p> <p>Additional points reviewed were:</p> <ul style="list-style-type: none"> <li>▪ Paying fair share for benefits received.</li> <li>▪ Phasing in of taxes.</li> <li>▪ Benefits of voluntary annexation.</li> <li>▪ Participation in advisory committees and eligibility to run for the City Council.</li> <li>▪ Removal of cost barriers (annexation fees including the Metro mapping fee); concurrence of City Council to pay this Metro fee for annexation applicants.</li> <li>▪ First outreach to 100 properties will give Tigard officials a sense of what the feelings are now in the unincorporated area.</li> <li>▪ Some people in the unincorporated area feel the City is nibbling away at what could be a future new city.</li> <li>▪ Need to start to build a relationship; continue to ask people to annex, and continue to meet with people.</li> <li>▪ General concurrence to continue the approach of being proactive with regard to annexing those properties that are volunteering to come into the City.</li> </ul> <p>Council received a handout regarding the Sunrise Lane Annexation: Summary Comparison of Natural Resource Protections in the Washington County Bull Mountain Community Plan/Development Code and the Tigard Comprehensive Plan/Development Code. This document is on file in the City Recorder’s office.</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
Study Session Administrative Item	City Council received a copy of a diagram showing additional parking near the Library along Wall Street.	
Study Session	Study Session concluded at 7:29 p.m.	
Business Meeting	<p>1.1 Mayor Dirksen called the City Council and the Local Contract Review Board to Order at 7:37 p.m.</p> <p>1.2 Council Present: Mayor Dirksen, Councilors Buehner, Wilson, and Woodruff.</p> <p>1.3 Pledge of Allegiance</p> <p>1.4 Council Communications &amp; Liaison Reports: None.</p> <p>1.5 Call to Council and Staff for Non-Agenda Items: None</p>	
2. Citizen Communications	<p>Nancy Younger, 15065 SW Sunrise Lane, Tigard, Oregon presented a proposal to revise Community Development Code Chapter 18.390.040 C3. A copy of her proposal is on file in the City Recorder's office.</p> <ul style="list-style-type: none"> <li>▪ She reviewed the short time period for neighbors to respond to a subdivision application and the difficulty they had to acquaint themselves with the regulations and register their concerns with the City. Council members, staff and legal counsel discussed Ms. Younger's concerns with her. Key points included: <ul style="list-style-type: none"> <li>○ The state mandates that decisions on land use applications be made within 120 calendar days.</li> <li>○ Staff noted the 14-day review period for neighbors is standard among jurisdictions.</li> <li>○ There may be some opportunity for additional time for review before the application is deemed as "complete."</li> </ul> </li> </ul>	



Agenda Item	Discussion & Comments	Action Items (follow up)								
	<ul style="list-style-type: none"><li>○ Councilor Wilson recommended the citizens academy for interested citizens to learn about procedures for City government, including land use regulations.</li><li>○ Ms. Younger requested the City ask the state legislature to consider extending the 120-day time period. Mayor Dirksen agreed this would be something City officials could bring up with Tigard’s legislative representatives.</li><li>○ Mr. John Frewing suggested the City could allow the citizens a 30-day review period of a substantially complete application. He said the application could be deemed 95 percent complete, give neighbors 30 days to review and then after the neighbor review, the 120-day clock starts. Councilor Buehner commented this might mean that two public notices would need to be sent out.</li></ul>									
3. Consent Agenda	<p>Mayor Dirksen reviewed the items presented on the Consent Agenda:</p> <p>3.1 Approve a Tree Board Charge Statement to Conduct the Tigard Tree Stewardship and Urban Forest Enhancement Project – Resolution No. 07-30</p> <p>A RESOLUTION OF THE TIGARD CITY COUNCIL ADOPTING AN INTERIM TREE BOARD CHARGE STATEMENT FOR THE PURPOSE OF DEVELOPING A COMPREHENSIVE TREE PROTECTION AND URBAN FOREST ENHANCEMENT PROGRAM</p> <p>3.2 Approve Amendment to the Washington County Cooperative Library Services Public Library Service Agreement</p> <p>3.3 Approve Amendment to the IGA with the Washington County Cooperative Library Services</p>	<p>Mayor Dirksen asked for Item No. 3.5c to be removed for separate City Council consideration.</p> <p>Motion by Councilor Buehner, seconded by Councilor Woodruff, to approve the Consent Agenda, except for Item No. 3.5c.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Buehner</td><td>Yes</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table>	Mayor Dirksen	Yes	Councilor Buehner	Yes	Councilor Wilson	Yes	Councilor Woodruff	Yes
Mayor Dirksen	Yes									
Councilor Buehner	Yes									
Councilor Wilson	Yes									
Councilor Woodruff	Yes									

Agenda Item	Discussion & Comments	Action Items (follow up)								
	<p>3.4 Amendment to the Washington County Inter-Library Information Network WILInet Agreement</p> <p>3.5 Local Contract Review Board:</p> <ul style="list-style-type: none"><li>a. Award a Contract for the Construction of the Jim Griffith Memorial Skate Park</li><li>b. Authorize Payment to the City of Beaverton for a Water System Connection</li><li>c. See below; this item was considered separately.</li></ul>									
Consent Agenda – Item No. 3.5C	<p>3.5 Local Contract Review Board:</p> <ul style="list-style-type: none"><li>c. Award Contract for Construction of Hall Boulevard/Wall Street Intersection – Phase II and the Library Parking Lot Expansion</li></ul> <p>Mayor Dirksen referred to the last Budget Committee meeting where this project was discussed. Citizen John Frewing had asked that the project not be funded. The City Engineer responded by letter noting why the right of way was being proposed to be constructed as now designed. The street could be made narrower; however, right of way would still need to be included and actual cost savings would be negligible. The Mayor referred to the contractual obligation of the City to provide access to an adjacent property owner. In addition this extension will provide access for the condominiums and will redirect traffic, which was a condition by the Oregon Department of Transportation. Mayor Dirksen said he was persuaded there was no benefit to revising this project now. He pointed out there will be a benefit as this will restore the creek to its natural condition.</p> <p>Councilor Wilson noted the bike lanes will provide a connection to the north and contributes to the city's bike path network.</p> <p>Mayor Dirksen consented to Mr. Frewing's</p>	<p>Motion by Mayor Dirksen, seconded by Councilor Buehner, to approve Consent Agenda Item No. 3.5 c.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Buehner</td><td>Yes</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table>	Mayor Dirksen	Yes	Councilor Buehner	Yes	Councilor Wilson	Yes	Councilor Woodruff	Yes
Mayor Dirksen	Yes									
Councilor Buehner	Yes									
Councilor Wilson	Yes									
Councilor Woodruff	Yes									

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>request to comment. Mr. Frewing said the contract should not be awarded and the project should be reengineered. He said he continues to be concerned about the impact to wetlands and believes the project could be scaled down in size.</p> <p>Councilor Woodruff commented that he had never been in favor of the original plan regarding the Wall Street project. However, now that it has been engineered, he is in favor of the additional parking it will provide. He added that he was not sure if the project should be redesigned at this late date because the cost savings would not be much.</p>	
<p>Recorder's Note Way W. Lee Ballot Measure 37 Claim</p>	<p><i>At the April 10, 2007, City Council Meeting, the Ballot Measure 37 Quasi Judicial Public Hearing – Way W. Lee General Contractor, Inc. (2006-00004) was continued to May 22, 2007. The City of Tigard and the Applicant entered into a settlement Agreement on May 8, 2007, negating the need for the hearing's continuation.</i></p>	
<p>4. Update on Services offered by the Tigard- Tualatin Family Resource Center</p>	<p>Tigard-Tualatin Family Resource Center Director Catherine West presented information to the City Council about services provided by the center.</p> <p>A pamphlet outlining the services offered was distributed to the City Council and is on file in the City Recorder's office.</p>	
<p>5. Sunrise Lane Annexation</p>	<p><b>Mayor Dirksen opened the public hearing.</b></p> <p><b>City Attorney Corrigan reviewed how the proceedings would be conducted.</b></p> <p><b>Declarations or challenges:</b> Councilor Buehner advised she lives on Bull Mountain and has walked in the subject area. Mayor Dirksen advised he was familiar with the area. Councilor Wilson said he lives close to the area, but has not walked it recently.</p> <p><b>All City Council members indicated they had reviewed the application for annexation.</b></p>	<p>Motion by Councilor Buehner, seconded by Councilor Woodruff, to adopt Ordinance No. 07-10, based on the staff report and the testimony presented. Council discussed the addition of an emergency clause. After discussion, consensus of Council was to agree to adopt the ordinance with an emergency clause in recognition of the delays experienced by the applicant, which has been a burden.</p>

Agenda Item	Discussion & Comments	Action Items (follow up)								
	<p><b>Associate Planner Pagenstecher presented the staff report, which is on file in the City Recorder's office.</b> He referred to the previous annexation application, the appeal, the remand and then the applicant's withdrawal of the original application. This is a new application and since the initial application, two important changes have occurred:</p> <ol style="list-style-type: none"><li>1. The City and Washington County have terminated the Intergovernmental Agreement where the City provided planning and development services on behalf of the County.</li><li>2. The City has amended its Comprehensive Plan and Development Code (Ordinance No. 06-20) to include Goal 5 Habitat Friendly Development Provisions including the Significant Habitat Areas Map. Therefore, the Bull Mountain Community Plan and its Goal 5 provisions no longer apply to this site.</li></ol> <p>The applicant owns nine parcels. Six additional landowners of eight parcels accepted an invitation by the City to annex. The proposal before the City Council is to annex 17 parcels consisting of approximately 39.42 acres. All properties will benefit from the annexation fee waiver and a phase-in of taxes. No comments were received in opposition. The property, when annexed, will be zoned R-7.</p> <p><b>Applicant Testimony:</b></p> <p>Michael Robinson testified as the representative for the applicant. He distributed an Exhibit to the City Council: an aerial photograph showing Tigard boundaries, the applicant's lots and the eight parcels owned by individuals who accepted the invitation to annex. This map is on file in the City Recorder's office. Mr. Robinson noted the applicant decided to reapply for annexation because of the two changes noted above by Associate Planner Pagenstecher. Mr. Robinson advised the City Council that he was in agreement with the staff report and requested that the enacting ordinance be</p>	<p>Mayor Dirksen said approving the emergency clause represents an effort to expedite this as much as possible.</p> <p>Legal Counsel Corrigan recommended two motions: one on whether to add the emergency clause to the proposed ordinance and the second motion to consider adopting the proposed ordinance and declaring an emergency.</p> <p>Motion by Councilor Buehner, seconded by Councilor Woodruff, to amend the motion to add an emergency clause.</p> <p>Council consensus was the emergency clause would provide that the ordinance would take effect immediately upon passage.</p> <p>The motion was approved by a unanimous roll call vote of Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Buehner</td><td>Yes</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table> <p>Motion by Councilor Buehner, seconded by Councilor Wilson, to approve the ordinance (Ordinance No. 07-10) as amended.</p> <p>The motion was approved by a unanimous roll call vote of Council present.</p>	Mayor Dirksen	Yes	Councilor Buehner	Yes	Councilor Wilson	Yes	Councilor Woodruff	Yes
Mayor Dirksen	Yes									
Councilor Buehner	Yes									
Councilor Wilson	Yes									
Councilor Woodruff	Yes									

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>adopted with an emergency clause. In response to Mayor Dirksen, Mr. Robinson said the City Council had adopted the first ordinance by emergency citing findings for public health safety and welfare and the same findings were applicable to this application.</p> <p>In response to Councilor Woodruff, Mr. Robinson said the applicant is applying for annexation because the applicant believes it is important for this development to be within the City, which will ultimately be of benefit to home buyers since it will be clear as to who should be providing services. He added the applicant believes that urban developed areas should be in cities.</p> <p>In response to Councilor Buehner, Mr. Robinson commented on the comparison of the Bull Mountain Community Plan and City of Tigard regulations. He said the City of Tigard Code provides for tree protection and there are regulations regarding Goal 5 resources. The Tigard Code is at least as restrictive as the Bull Mountain Community Plan and the resources will be protected.</p> <p><b>Public Testimony:</b></p> <p>Nancy Younger, Neutral, 15065 SW Sunrise Lane, Tigard OR 97224 asked if the application fee for the first annexation application was refunded. Associate Planner Pagenstecher said the application fees were not refunded; however, with this current annexation application fees were paid but then refunded because of the policy to waive annexation fees at this time. Ms. Younger asked about those who want to withdraw and stay with Washington County. Mayor Dirksen explained that those properties under consideration tonight have petitioned to be annexed and will be annexed to the City. Ms. Younger showed the City Council on a map where her property is located; it is not part of this annexation proposal.</p> <p>Alice Kimmel, Neutral, 14960 SW Sunrise Lane, Tigard, OR 97224, asked how this would affect her property and would she have to</p>	<p>Mayor Dirksen      Yes  Councilor Buehner    Yes  Councilor Wilson      Yes  Councilor Woodruff    Yes</p>

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>pay for sewer or would the road be widened. Associate Planner Pagenstecher clarified that the decision before the City Council tonight is for annexation of properties and not for development. The developer plans to develop soon and Ms. Kimmel's questions would pertain to the development application. Property owners would pay for sewer only if they benefited (hooked up). City Manager Prosser added that the road, Sunrise Lane, was annexed when the Menlor property came into the city. S.W. 150<sup>th</sup> Avenue is not in the city and is not a part of this annexation request. Councilor Wilson noted Ms. Kimmel brought up a good point when she asked how the development would have access. Access will need to be resolved when the property is developed.</p> <p><b>Applicant Rebuttal:</b> None.</p> <p><b>Staff recommended approval of the proposed annexation.</b></p> <p><b>Mayor Dirksen closed the public hearing.</b></p> <p><b>City Council considered ordinance No. 07-10:</b></p> <p>ORDINANCE 07-10 – AN ORDINANCE ANNEXING SEVENTEEN PARCELS TOTALING 39.42 ACRES APPROVING SUNRISE LANE ANNEXATION (ZCA2007-00001), AND WITHDRAWING PROPERTY FROM THE TIGARD WATER DISTRICT, WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT, WASHINGTON COUNTY URBAN ROADS MAINTENANCE DISTRICT, WASHINGTON COUNTY STREET LIGHTING DISTRICT #1, AND THE WASHINGTON COUNTY VECTOR CONTROL DISTRICT, AND DECLARING AN EMERGENCY .</p>	<p>Councilor Wilson asked staff to provide an updated copy of the Goal 5 provisions.</p>

Agenda Item	Discussion & Comments	Action Items (follow up)
<p>6. Consider an Ordinance Amending the Tigard Municipal Code (TMC) Chapter 12.10.110 Regarding the City's Cross-Connection Control Program</p>	<p>Assistant Public Works Director Rager presented the staff report. The proposed ordinance reflects current changes in the state's administrative rules relating to cross connections for public water utilities. The ordinance will bring the TMC in line with these rule changes, clarify language, and provide staff with better enforcement tools regarding the annual testing of devices designed to control cross connections.</p> <p>Council discussion followed. When presented earlier to the City Council, Councilor Wilson questioned the proposed ordinance. Further changes were recommended and are outlined in the staff report on file in the City Recorder's office.</p> <p>Council discussion followed. The ordinance will require that all back flow assembly devices become registered. Staff received a suggestion by email that the City could provide backflow testing or enter into a contractual agreement for this testing. Assistant Public Works Director Rager advised there is one individual managing the backflow program.</p> <p>Councilor Buehner advised she strongly objects to the ordinance.</p> <p>The City Council considered Ordinance No. 07-11:</p> <p>ORDINANCE 07-11 – AN ORDINANCE AMENDING TIGARD MUNICIPAL CODE CHAPTER 12.10.110 REGARDING THE CITY'S CROSS CONNECTION CONTROL PROGRAM</p>	<p>Motion by Councilor Wilson, seconded by Mayor Dirksen, to adopt Ordinance No. 07-11.</p> <p>Council discussion followed. Councilor Buehner advised she was going to vote no on the ordinance "on general principle" and said she has received several telephone calls from citizens who consider this ordinance invasive. Assistant Public Works Director Rager noted the requirements of state regulations. Councilor Wilson said the city should be reasonably prudent to guarantee the safety of the water supply; although, he thought testing every five years would be adequate. Mayor Dirksen suggested this might be something the city forward to the legislature with a request to review and amend. In response to a question from Councilor Woodruff, Assistant Public Works Director Rager advised the City only knows of those backflow devices have been reported to the city by the property owners as they comply with the regulations for testing. For those devices that are not in compliance, staff might become aware of them if they can view a sprinkler system or a hot tub on the property.</p>



Agenda Item	Discussion & Comments	Action Items (follow up)
		<p>The motion passed by a majority vote of City Council present.</p> <p>Mayor Dirksen        Yes  Councilor Buehner    No  Councilor Wilson      Yes  Councilor Woodruff    Yes</p>
7. Consider Measure 37 Claim: E & V Development (M372005-00007)	Council consideration for this claim was postponed to an indefinite date.	
8. Consider Measure 37 Claim: Shilo Inn/Cascade Hotel Corp. (M372006-00005)	This public hearing was continued to an indefinite date.	
9. Consider a Purchase and Sale Agreement for Two Ash Creek Estates Lots in Order to Construct a Neighborhood Park.	<p>Public Works Director Koellermeier presented the staff report. The city conducted an appraisal of the lots; the appraised value and corresponding purchase price is \$385,000. The Parks Capital Fund has \$1,147,326 available for park land acquisition in the current fiscal year.</p> <p>The lots border an open space that Ash Creek Properties is donating to the City and will be useable for a city park. Public Works Director Koellermeier reviewed discussions with the developer. Once negotiated, the City Attorney's office prepared the proposed Purchase and Sale Agreement. Councilor Buehner commented she thought this was ironic insofar as this is what the Planning Commission had previously requested.</p> <p>In response to a question from Councilor Woodruff, Public Works Director Koellermeier advised the Park and Recreation Advisory Board (PRAB) had reviewed options and evaluated 40 properties for potential park land purchases. The</p>	<p>Motion by Councilor Buehner, seconded by Mayor Dirksen, to approve the Purchase and Sale Agreement and authorize the City Manager to execute.</p> <p>There was discussion on the motion. Councilor Woodruff said another option would be to go back to the seller and ask for a price reduction; all that would be lost is one week.</p> <p>The motion failed upon a tie vote of the City Council present:</p> <p>Mayor Dirksen        Yes  Councilor Buehner    Yes  Councilor Wilson      No</p>

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>subject property was among the 40 properties evaluated and reviewed by PRAB. There is a willing seller. This is a park land purchase that can come to fruition in a neighborhood that is park deficient.</p> <p>There was lengthy discussion about the value of the property with an acknowledgement that this is expensive. The property would provide good public access to the open space, provide a location for a trail head facility, and be a good site to develop a tot lot. The land has been leveled to some extent and the developer will do some additional planting (mitigation) in the slope areas.</p> <p>There was discussion on whether to place a motion on the floor to approve the purchase and sale agreement. Councilor Wilson said he would like to hear from Mr. John Frewing who earlier indicated some concerns about the purchase of this property.</p> <p>Mr. Frewing's main points of concerns were:</p> <ul style="list-style-type: none"> <li>▪ This would not be a wise expenditure of city dollars and he suggested the city obtain an additional appraisal.</li> <li>▪ Cited the lack of parking and the steep slope.</li> <li>▪ Referred to the topography of the property and said the city is proposing to pay "astounding prices" for the property.</li> <li>▪ Translating the property price of \$385,000 into what it would cost per acre equals \$1.5 million.</li> <li>▪ He lives in the area and would like parks but said the city can make better use of the money by purchasing other sites for parks.</li> <li>▪ Referred to the development process; this represents a major change to the development proposal and said it should be resubmitted for review.</li> <li>▪ These two lots are interesting, but not at that price.</li> </ul> <p>Mr. Frewing said he has not had an opportunity to review the appraisal; the appraisal had not been available for public review before now. He said he would like to review the appraisal.</p>	<p>Councilor Woodruff No</p> <p>Councilor Wilson noted that raw land is cheaper than developed lots. He noted the property is expensive because it is ready to be developed. He said he would be willing to consider the purchase of the property because it is adjacent to and the only viable access to the open space; this area would make a reasonable place for a trail head. However, the price for these pieces of property seems a bit high.</p> <p>Councilor Buehner recalled discussion by opponents of the development who cited the importance of the cedar trees and that this was a very special area. They argued that this was an opportunity for Tigard to have a top quality open space. She says it appears this discussion has been forgotten; although, it was one of the reasons why she made the decision she did while serving on the Planning Commission.</p> <p>Motion by Councilor Woodruff, seconded by, Councilor Wilson, to direct staff to go back to the owners, let them know of the current Council sentiment that there is interest, but the price is too high. Staff will report back to the City Council the outcome of this conversation with the owners.</p>

Agenda Item	Discussion & Comments	Action Items (follow up)								
	<p>Lengthy discussion followed regarding to the depth of review by the PRAB. Public Works Director Koellermeier advised there were issues of confidentially regarding the negotiation process for the purchase of the property. If the Council does not approve the purchase, the appraisal does not necessarily become a public document.</p> <p>The discussion included conversation about the topography of the proposed park area, the diminishing amount of land available for areas that are park deficient, the relative value of the owning this property for a park and how it could be utilized.</p>	<p>Mayor Dirksen rephrased the motion that the direction to staff is to make a counter-offer on the property. During discussion on clarification of the wording of the motion, Public Works Director Koellermeier suggested that the City Council not tell him at this time the lowest acceptable price for the property. Public Works Director Koellermeier said he will see what he can do and then bring back "something."</p> <p>Mayor Dirksen then announced that it had been moved and seconded to direct staff to move forward to making a counter-offer.</p> <p>The motion was approved by a majority vote of City Council present:</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Buehner</td><td>No</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table> <p>Councilor Buehner reiterated that she was very concerned about the history of this property and the personalities involved and that the City may lose the opportunity to purchase this property.</p>	Mayor Dirksen	Yes	Councilor Buehner	No	Councilor Wilson	Yes	Councilor Woodruff	Yes
Mayor Dirksen	Yes									
Councilor Buehner	No									
Councilor Wilson	Yes									
Councilor Woodruff	Yes									

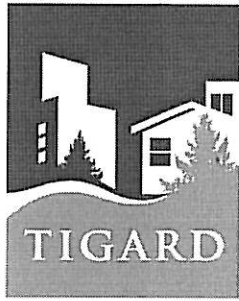
Agenda Item	Discussion & Comments	Action Items (follow up)
Adjournment	The meeting adjourned at 9:26 p.m.	<p>Motion by Councilor Woodruff, seconded by Councilor Buehner, to adjourn the meeting.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen        Yes  Councilor Buehner    Yes  Councilor Wilson      Yes  Councilor Woodruff    Yes</p>

\_\_\_\_\_  
Catherine Wheatley, City Recorder

Attest:

\_\_\_\_\_  
Mayor, City of Tigard

Date:\_\_\_\_\_



# MEMORANDUM

TO: Honorable Mayor & City Council  
FROM: Cathy Wheatley, City Recorder  
RE: Three-Month Council Meeting Calendar  
DATE: July 27, 2007

Agenda Item No. 3.2.a  
For Agenda of August 14, 2007

Regularly scheduled Council meetings are marked with an asterisk (\*).

## August

14\* Tuesday Council Business Meeting – 6:30 pm, Town Hall  
21\* Tuesday Council Workshop Meeting – 6:30 pm, Town Hall  
28\* Tuesday Council Business Meeting – 6:30 pm, Town Hall

## September

11\* Tuesday Council Business Meeting – 6:30 pm, Town Hall  
18 Tuesday Special Meeting with Tigard-Tualatin School District – 6:30 pm, Town Hall  
25\* Tuesday Council Business Meeting – 6:30 pm, Town Hall

## October

9\* Tuesday Council Business Meeting – 6:30 pm, Town Hall  
16\* Tuesday Council Workshop Meeting – 6:30 pm, Town Hall  
23\* Tuesday Council Business Meeting – 6:30 pm, Town Hall  
30 Tuesday Fifth Tuesday Council Meeting – Tigard Water Building, 7-9 p.m.

Agenda Item No. 3.2.6  
 Meeting of August 14, 2007

Tigard City Council Tentative Agenda 2007

Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5:	August 14, 2007 Business/6:30 p.m. City Hall  July 31, 2007	Meeting Date: Meeting Type/Time:	Aug 14 CONTINUED Business/6:30 p.m.	Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5: Councilors Wilson & Woodruff will be absent	August 21, 2007 Workshop/6:30 p.m. City Hall  August 7, 2007
Study Session		Business Meeting - Continued		Workshop Meeting	
Transp. WCCC Funding Options - Tom/Gus - 30 min.		Finalize Sewer Dist. #37 (87th & Hall) -Info. Pub. Hearing - Gus. D. - PPT - RES - 15 min. Public Hearing Amend TMC re Chief Petitioners Req'd to be Tigard Voters for Tigard-Related Initiatives & Referenda - Cathy W. - 20 min Public Hearing - Exemption from Formal Solicit. for Hiteon Cr. Stream Restoration - Dennis 10 min		I-5 to 99W Connector Project Briefing - Gus. D. - 30 min.- PPT Discuss Strategies for Establishing Continuing Dialog with Oregon Transp. Commission - Gus - 15 min. Zone Changes Upon Annexation - Dick B. - 30 min. Comp Plan Update - Legislative Process - Darren Wyss - 20 min. Proposed CCI Bylaws and Membership Structure - Duane - 25 min.	
Consent Agenda					
Metro IGA to provide PD Support for Enforcement of Metro Illegal Disposal - Chief D. Bud. Amd. #3 re Metro Illegal Disposal IGA -Bob S. - RES Authorize City Mgr. to execute OR Water/Wastewater Agnc'y Network Mutual Aid & Assist. Agreement - Dennis Amend CWS IGA re Sewer/Surface Water Facilities & Authorize City Mgr. to Execute Amendment -Dennis 3rd Amend. To Joint Funding Agreement for IWRM Water Supply Feas. Study (aka Tualatin Basin Water Supply Project) - Dennis K. LCRB-Traffic Sig. Install at Durham/108th-Tom C. Approve Justice Assist. Grant (JAG) App. - Chief D. MOU re Potential Real Property Trans. Tom C.-RES					
Business Meeting					
Council Goal Update - Admin. - 15 min. SI Approve TMC Amendment Changing Current Business Tax Structure - Chief D. - 20 min. - ORD Modify 07-08 Citywide Master Fees and Charges Schedule to Add Changes to Business Tax - Chief D. - 5 min. - RES Business Tax Bud. Amd.#1 - RES - Bob - 5 min. CCDA - Downtown Urban Design Update - CCAC and PC Recommendations - Tom. C - 20 min. CONTINUED		Time Avail: 135 min. - Time Scheduled: 110 min. Time Left: 25 min.		Time Avail: 200 min. - Time Scheduled: 120 min. Time Left: 80 min.	

Tigard City Council Tentative Agenda 2007

Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5:	August 28, 2007 Business/6:30 p.m. City Hall  August 14, 2007	Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5:	September 11, 2007 Business/6:30 p.m. City Hall  August 28, 2007	Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5:	September 18, 2007 Workshop/6:30 p.m. City Hall  September 4, 2007
Study Session		Study Session		Workshop Agenda	
City Manager Review - Admin. Discussion on Downtown Plaza Location - Phil N. 20 min. Council Liaison Assignments - Admin. - 10 min.		Consent Agenda		Special Joint Meeting - TTSD & Cities of Tigard and Tualatin. Invitation to attend: King City & Durham	
Consent Agenda				NO OTHER ITEMS WILL BE SCHEDULED	
Business Meeting		Business Meeting			
Chamber of Commerce Rep. - 10 min. Family Fest Update - Joanne B. - 5 min. Proc.-Nat'l Alcohol & Drug Addiction Recovery Month - Joanne B. - 5 min. - - Public Hearing - Selection of Downtown Plaza Location - Phil N. - 60 min. Update of Library Technical Resources - Margaret PPT - 15 min. Summer Reading Recap - Margaret B.-PPT-10 min.		THS Student Envoy - 10 min. Proclamation - Constitution Week -Joanne B.-5 min. Annual Joint Meeting with Tri-Met - Fred Hansen - Duane 20 min Annual Police Dept. Update - Bill D. - 30 min.- SI Review Downtown Fanno Creek Park Design Alternatives & Select Preferred Alternative - Phil N. - 60 min.			
Time Avail: 135 min. - Time Scheduled: 105 min. Time Left: 30 min.		Time Avail: 135 min. - Time Scheduled: 125 min. Time Left: 10 min.		Time Avail: 200 min. - Time Scheduled:0 min. Time Left: 170 min.	



Tigard City Council Tentative Agenda 2007

Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5:	September 25, 2007 Business/6:30 p.m. City Hall  September 11, 2007	Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5:	October 9, 2007 Business/6:30 p.m. City Hall  September 25, 2007	Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5:	October 16, 2007 Workshop/6:30 p.m. City Hall  October 2, 2007
Study Session		Study Session		Workshop Agenda	
				Joint Meeting with Senior Center Board - Loreen - 30 min. - SI Joint Meeting with the Budget Committee - Bob - 30 min. - SI Enhanced Citizen Participation Update - Liz - 30 min. - SI Legislative Agenda - Liz N. - 30 min. NEED RTS	
Consent Agenda		Consent Agenda			
		Business Meeting			
		THS Student Envoy - 10 min.			
Business Meeting					
Proclamation: Tigard Chamber Week - Oct. 1-5 - Joanne - 5 min. Chamber of Commerce Rep. - 10 min.					
Time Avail: 135 min. - Time Scheduled: 15 min. Time Left: 120 min.		Time Avail: 135 min. - Time Scheduled: 10 min. Time Left: 125 min.		Time Avail: 200 min. - Time Scheduled: 120 min. Time Left: 80 min.	

Agenda Item #

Meeting Date

August 14, 2007

## COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Consent Agenda: Approve an Intergovernmental Agreement with Metro Providing Tigard Police Department Support for the Enforcement of the Metro Illegal Disposal Ordinance

Prepared By: Chief Bill Dickinson Dept Head Approval: *lmm* City Mgr Approval: *CP*

### ISSUE BEFORE THE COUNCIL

The City Council is being asked to approve and authorize the City Manager to sign an Intergovernmental Agreement (IGA) with Metro for the City to assign a police officer to provide general investigative law enforcement service to enforce Metro's code and regulations with regard to solid waste flow control and management. Metro would reimburse the City for the full cost of providing these services.

### STAFF RECOMMENDATION

Approve the IGA with Metro and give the City Manager approval to sign the agreement.

### KEY FACTS AND INFORMATION SUMMARY

One of the primary responsibilities of Metro's Regional Environmental Management Department is to carry out Metro's responsibility to manage the flow of solid waste in the region and the provisions relating to illegal dumping in the Regional Solid Waste Management Plan. One of the enforcement regulations Metro has is contained within their Illegal Disposal Ordinance.

Instead of having Metro staff as enforcement officers under this Ordinance, Metro has looked to the local law enforcement community to provide this service. Metro has approached the City's Police Department and requested that a City police officer be assigned to work with them on their enforcement efforts. The officer would be primarily responsible for surveillance and investigating suspected violations of environmental laws, rules, and ordinances.

If approved by the City Council, an officer would be assigned to work with Metro staff in their Regulatory Affairs Division but remain a City employee. However, Metro would reimburse the City for all personnel and related expenses. This position is not in the FY 2007-08 Adopted Budget, so there is a related agenda item on the Council's consent agenda to approve a budget amendment to establish budget authority. There is no impact to the City's General Fund.

### OTHER ALTERNATIVES CONSIDERED

N/A

### CITY COUNCIL GOALS

Increase Tigard's involvement with Washington County, Metro, State, ODOT, TriMet, and Federal Government

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## ATTACHMENT LIST

Intergovernmental Agreement with attachments between the City and Metro.

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## FISCAL NOTES

The City will be fully reimbursed for the services provided by the additional position, including a 10% fee to cover the City's cost of administration. This position is not included in the FY 2007-08 Adopted Budget and a budget amendment will be a consent agenda item for approval by the City Council.

## INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement ("Agreement") is made under the authority found in ORS 190.010, et seq., and ORS 206.345 between the City of Tigard ("TIGARD") and METRO.

### RECITALS

WHEREAS, TIGARD is a political subdivision of the State of Oregon and is a unit of local government authorized to enter into intergovernmental agreements pursuant to ORS 190.010, et seq.; and

WHEREAS, METRO is an Oregon municipal corporation formed and operating under state law and the Metro Charter, and is a unit of local government authorized to enter into intergovernmental agreements pursuant to ORS 190.010, et seq.; and

WHEREAS, METRO desires to contract with TIGARD for the performance of certain law enforcement functions to be performed by TIGARD; and

WHEREAS, TIGARD is able and prepared to provide the services required by METRO under the terms and conditions set forth in this Agreement; now, therefore,

IN CONSIDERATION of those mutual promises and the terms and conditions set forth hereafter, and pursuant to the provisions of ORS chapter 190, the parties agree to be bound as follows:

1. **TERM:** The term of this Agreement shall be from July 1, 2007, through June 30, 2008.
2. **TERMINATION:** This Agreement may be terminated as follows:
  - a. Any party to this Agreement may terminate this Agreement for its convenience and without penalty upon thirty (30) days written notice of its intention to terminate.
  - b. If METRO is unable to appropriate sufficient funds to pay TIGARD for its services under this Agreement, METRO must notify TIGARD and the Agreement shall terminate as of the end of the last fiscal year for which such appropriations are available.
  - c. Any obligations arising prior to the date of termination survive the termination, including any obligation to defend and indemnify any other jurisdictions.

3. **INDEMNIFICATION:**

Subject to the conditions and limitations of the Oregon Constitution and the

Oregon Tort Claims Act, ORS 30.260 through 30.300, TIGARD shall indemnify, defend and hold harmless METRO from and against all liability, loss, and costs arising out of or resulting from the acts of TIGARD, its officers, employees, and agents in the performance of this Agreement.

Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, METRO shall indemnify, defend, and hold harmless TIGARD from and against all liability, loss, and costs arising out of or resulting from the acts of METRO, its officers, employees, and agents in the performance of this Agreement.

4. **ADHERENCE TO LAW:** Each party must comply with all federal, state, and local laws and ordinances applicable to this Agreement.
5. **ACCESS TO RECORDS:** Each party must have access to the books, documents, and other records of the other parties related to this Agreement for the purpose of examination, copying, and audit, unless otherwise limited by law.
6. **ENTIRE AGREEMENT:** This Agreement and Exhibit 1 constitute the entire agreement between the parties. This Agreement may be modified or amended only the by written agreement of the parties.
7. **ATTORNEY FEES:** In the event a lawsuit is filed to obtain performance of any kind under this Agreement, the prevailing party is entitled to additional sums as the court may award for reasonable attorney fees, all costs, and disbursements, including attorney fees, costs, and disbursements on appeal.
8. **SEVERABILITY:** The parties agree that, if any term of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms will not be affected.
9. **NOTICES:** The parties must send any notices, bills, invoices, reports, or other written communications required by this Agreement through the United States Mail, first-class postage paid, or personally delivered to the addresses below:

**Tigard**  
City Manager  
13125 SW Hall Blvd  
Tigard, OR 97223

**Metro**  
Solid Waste & Recycling Department Director  
600 NE Grand Avenue  
Portland, OR 97232

## INVESTIGATION

10. TIGARD shall provide a TIGARD police officer ("Officer") for general investigative law enforcement service to METRO at METRO's direction. This service shall include:
  - (a) Enforcement of the METRO code and regulations, including without limitation provisions related to flow control investigation and solid waste

- management;
- (b) Random and directed surveillance of persons collecting, transporting, storing, treating, and disposing of solid and liquid waste to ensure such persons are complying with the METRO code and regulations;
  - (c) Assistance with investigation, case preparation, and prosecution in cases involving offenses (including without limitation fraud, racketeering, and material breach of contract) allegedly committed by vendors, contractors, or subcontractors doing business with METRO or by facilities, firms or individuals subject to METRO ordinances and regulations;
  - (d) Investigations of suspected violations of environmental laws, rules, and ordinances; and
  - (e) Other general investigative work as requested by METRO.
11. During the existence of this Agreement, the Officer shall exercise such authority as may be vested by law or by terms of this Agreement, including full power and authority to cite, arrest, and take other enforcement action for violations of all METRO code provisions and regulations, including without limitation those relating to flow control and waste management.

## **PERSONNEL MATTERS**

12. TIGARD shall provide for the performance of the duties hereunder one FTE officer position. For the purpose of this Agreement, one FTE position means an employee who is regularly scheduled to work at least 40 hours per week performing the services required under this Agreement.
13. The Officer shall be certified by the State's Department of Public Safety Standards and Training.
14. For an Officer who has been assigned to METRO for one year or longer, METRO shall pay one-half of personnel costs for absences due to general law enforcement training. METRO shall not pay personnel costs for absences due to specialized law enforcement training that does not relate directly to the services provided under the terms of this Agreement.
15. The Officer shall be and remain an employee of TIGARD. TIGARD shall ensure that the Officer performs duties in accordance with the administrative and operational procedures of TIGARD.
16. METRO has the right, upon request and for cause stated, to have an Officer removed from assignment under this Agreement and replaced by other Officer meeting the requirements of this Agreement.
17. METRO will not pay wages, salaries, or other compensation directly to the Officer performing services under this Agreement or for any other liability not provided

for in this Agreement.

18. TIGARD shall maintain Workers' Compensation insurance coverage for the Officer, either as a carrier insured employer or a self-insured employer as provided in ORS Chapter 656.
19. The collective bargaining agreement between the Officer and TIGARD ("collective bargaining agreement") governs all matters related to benefits, hours, vacations, sick leave, grievance procedures and other conditions of employment of the Officer.
20. The collective bargaining agreement and the TIGARD personnel rules govern all labor disputes arising out of this Agreement.
21. The Officer may be absent from duty for various reasons, including but not limited to vacation, holidays, illness, training, leave of absence, and administrative leave in accordance with the foregoing acknowledgment:
  - (a) TIGARD will not be responsible or otherwise obligated to replace an Officer who is absent due to paid accrued leave, including without limitation vacation, holiday, sick, and training leave. TIGARD will make a good faith effort to schedule planned absences to minimize the impact on its ability to perform under this Agreement.
  - (b) TIGARD may invoice METRO, and METRO shall pay, the personnel costs of an Officer absent on vacation or sick leave, up to a total combined annual maximum of 120 hours, only if the Officer has been assigned to METRO for six months or longer. METRO shall pay personnel costs for any Officer absent during the following nine holidays when METRO's offices are closed:
    - (1) New Years Day;
    - (2) Martin Luther King Day;
    - (3) Washington's Birthday;
    - (4) Memorial Day;
    - (5) Independence Day;
    - (6) Labor Day;
    - (7) Veterans Day;
    - (8) Thanksgiving Day; and
    - (9) Christmas Day.

## OFFICE SPACE

22. METRO shall provide the Officer with office space and shall pay the costs for utilities including without limitation telephone costs, at METRO's premises or at a site mutually agreed upon by TIGARD and METRO.



## **EQUIPMENT PURCHASE, USE AND DISPOSITION**

23. The parties will purchase materials and supplies necessary for this Agreement as provided in this section. "Materials" includes items with a unit cost of \$1,000 or more, and "supplies" includes items with a unit cost of less than \$1,000.
24. METRO shall purchase all materials and supplies necessary for the performance of this Agreement.
25. METRO shall own all vehicles and equipment it purchases for this Agreement, including without limitation capital equipment. TIGARD shall use METRO's vehicles and equipment only to perform its duties under this Agreement and shall not use them for any other purpose without authorization from METRO. TIGARD shall assume liability for damage to any METRO vehicles or equipment while being used for non-METRO law enforcement-related purposes. Except as provided in paragraph 26, upon termination of this Agreement, TIGARD shall return all materials and supplies to METRO.
26. Consistent with Metro Code Chapter 2.04.064, upon termination of this Agreement METRO may grant to TIGARD an option to purchase from METRO any or all remaining materials and supplies purchased for this Agreement at a price mutually agreed upon by the parties, not to exceed the fair market value of the items at the times of purchase. TIGARD agrees to give METRO notice of TIGARD's intent to exercise this option within 60 days following termination of this Agreement.

## **CONTRACT COSTS**

27. METRO shall pay TIGARD for all costs as set forth in this Agreement. By February 1 of each year, TIGARD shall provide METRO with a good faith projection of the cost of this Agreement for the subsequent term of the Agreement. The parties shall agree on the amount paid by METRO for the term of the Agreement before each anniversary date of the execution of this Agreement.
28. For the Agreement beginning July 1, 2007, METRO will pay TIGARD no more than \$110,000, unless additional services are requested or directed by METRO. This amount includes all fees, costs, and expenses to which TIGARD is entitled for the term of this Agreement.
29. Exhibit 1 is the Budget for the Agreement prepared by METRO. TIGARD shall submit itemized billings to METRO no more than 15 days after the end of each quarter of the contract year, and METRO shall make payment to TIGARD within 30 days of receipt of approved billings.

**DISPUTE RESOLUTION**

30. If a claim, controversy, or dispute arises out of this Agreement, the complaining party shall give written notification to the other party of the nature of the claim and the remedy requested within 10 days of the incident that forms the basis of the dispute.
31. Oregon law shall govern this Agreement. The parties shall resolve all claims, controversies, or disputes that arise out of this Agreement by arbitration in accordance with the arbitration rules of the Arbitration Service of Portland or the American Arbitration Association. The party who first initiates arbitration shall designate an arbitration service by filing a claim in accordance with the rules of the organization selected. Such arbitration shall take place in Portland, Oregon, and any judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof.

**CONTRACT ADMINISTRATION**

32. The designated representative of the City of Tigard will represent TIGARD in all matters pertaining to administration of this Agreement.
33. METRO designates its Solid Waste & Recycling Department Director or his designee to represent METRO in all matters pertaining to administration of this Agreement.

**CONTRACT MODIFICATION AND THIRD PARTY RIGHTS**

34. This Agreement may be amended by agreement of the parties. Any amendment to this Agreement shall be effective only when incorporated herein by written amendments and signed by both METRO and TIGARD.
35. This Agreement shall not be deemed to vest in any third party any rights, nor shall it be deemed to be enforceable by any third party in any legal, equitable, or administrative proceeding whatsoever.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers on the date written below.

**TIGARD****METRO**

By: \_\_\_\_\_  
City Manager

By: \_\_\_\_\_  
Michael Jordan  
Chief Operating Officer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Tigard Contract No. \_\_\_\_\_

Metro Contract No. 928101

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Tigard Counsel

Date: \_\_\_\_\_

APPROVED AS TO FORM:  
Metro Attorney

By: \_\_\_\_\_  
Michelle Bellia  
Assistant Metro Attorney

Date: \_\_\_\_\_

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**EXHIBIT 1**

**Metro  
Regional Solid Waste Management  
Metro Illegal Disposal Ordinance**

**FY 2007-08**

	Base Hourly Rate	Benefit %	Total Hourly Rate w/Benefits		
Detective	\$28.15				
Special Assignment Pay	\$0.84				
<u>Total Hourly Rate</u>	<u>\$28.99</u>	<u>55.00%</u>	<u>\$44.94</u>	2080	\$93,475.78
Clothing Allowance	Per Month \$50.00				\$600.00
Equipment Allowance	Per Year \$100.00				\$100.00
Vehicle Rental Month to Month	\$350.00				\$4,200.00
					<u>\$98,375.78</u>
Administrative Fee	10.00%				\$9,837.58
					<u>\$108,213.36</u>

Note: Overtime would be at time and a half and no dollars have been included in this budget.

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Queue

Agenda Item #

Meeting Date

August 14, 2007

## COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Resolution Approving Budget Amendment #3 to the FY 2007-08 Budget Increasing Appropriations by \$90,620 in the Police budget within the Community Services Program, to Reflect an Intergovernmental Agreement Between Metro and the City of Tigard Assigning a Tigard Police Officer for Enforcement of the Metro Illegal Disposal Ordinance.

Prepared By: Robert Sesnon

Dept Head Approval:

RLS

City Mgr Approval:

CR

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### ISSUE BEFORE THE COUNCIL

Shall the City Council approve Budget Amendment #3 to increase appropriations in the Police budget to reflect the fiscal impacts of an intergovernmental agreement between Metro and the City of Tigard?

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### STAFF RECOMMENDATION

Staff recommends approval of Budget Amendment #3.

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### KEY FACTS AND INFORMATION SUMMARY

This is a companion resolution to the intergovernmental agreement between Metro and the City of Tigard. During the August 14, 2007 Council Business meeting Council is to consider approving this IGA which provides that Metro will fund the costs of a Tigard police officer to be assigned to Metro for the enforcement of the Metro illegal disposal ordinance. The agreement stipulates that Metro will reimburse the City of Tigard for personnel and related costs associated with this officer.

This budget amendment will transfer \$90,620 from the General Fund contingency to the Police budget within the Community Service Program. While Metro will reimburse the City for these costs, Oregon budget law prohibits the city from increasing the revenue budget without completing a time-consuming supplemental budget process involving the Budget Committee. Therefore staff does not recommend that the revenue budget be increased. Nevertheless, the related Interagency revenues in the general fund are anticipated to increase by an additional \$90,620.

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### OTHER ALTERNATIVES CONSIDERED

None

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### CITY COUNCIL GOALS

Not Applicable

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### ATTACHMENT LIST

Resolution including Attachment A.

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## FISCAL NOTES

There is no net affect to the General Fund as a result of this budget amendment.

CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
RESOLUTION NO. 07-\_\_\_\_\_

A RESOLUTION APPROVING BUDGET AMENDMENT #3 TO THE FY 2007-08 BUDGET TO INCREASE APPROPRIATIONS IN THE POLICE BUDGET WITHIN THE COMMUNITY SERVICE PROGRAM TO REFLECT AN INTERGOVERNMENTAL AGREEMENT BETWEEN METRO AND THE CITY OF TIGARD ASSIGNING A TIGARD POLICE OFFICER TO METRO.

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WHEREAS, as a companion to this resolution, during the August 14, 2007 business meeting the City Council approved an intergovernmental agreement between Metro and the City of Tigard assigning a Tigard police officer to support the enforcement of the Metro illegal disposal ordinance; and

WHEREAS, Metro has agreed to reimburse the City of Tigard for the cost of a police officer and related equipment and other expenses; and

WHEREAS, it is now necessary to amend the FY 2007-08 Budget to increase appropriations in the Police budget.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The FY 2007-08 Budget is hereby amended as shown in Attachment A to this resolution to transfer \$90,620 from the General Fund contingency to the Police budget in the Community Service program to fund the costs associated with one additional police officer and related equipment and expenses.

SECTION 2: This resolution is effective immediately upon passage.

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_ 2007.

\_\_\_\_\_  
Mayor - City of Tigard

ATTEST:

\_\_\_\_\_  
City Recorder - City of Tigard

City of Tigard  
Attachment A  
Fiscal Year 2007-08  
Budget Amendment #3

	Original Revised Budget	Amendment	Revised Revised Budget
<b>General Fund</b>			
<b>Resources</b>			
Beginning Fund Balance	\$8,838,290		\$8,838,290
Property Taxes	10,995,778		10,995,778
Interagency Revenues	4,284,888		4,284,888
Fees & Charges	1,411,350		1,411,350
Fines and Forfeitures	797,400		797,400
Franchise Fees	3,974,545		3,974,545
Interest Earnings	336,345		336,345
Other Revenues	20,000		20,000
Transfers In from Other Funds	2,965,162		2,965,162
<b>Total Resources</b>	<b>\$33,623,758</b>	<b>\$0</b>	<b>\$33,623,758</b>
<b>Requirements</b>			
Community Service Program	14,422,491	90,620	14,513,111
Public Works Program	3,084,603		3,084,603
Community Development Program	3,384,411		3,384,411
Policy & Administration Program	416,368		416,368
General Government	30,000		30,000
<b>Program Expenditures Total</b>	<b>\$21,337,873</b>	<b>\$90,620</b>	<b>\$21,428,493</b>
Debt Service	0		0
Loan to CCDA	80,000		80,000
Capital Projects	0		0
Transfers to Other Funds	6,257,877		6,257,877
Contingency	685,721	(90,620)	595,101
<b>Total Budget</b>	<b>\$28,361,471</b>	<b>\$0</b>	<b>\$28,361,471</b>
<b>Ending Fund Balance</b>	<b>5,262,288</b>	<b>0</b>	<b>5,262,288</b>
<b>Total Requirements</b>	<b>\$33,623,759</b>	<b>\$0</b>	<b>\$33,623,759</b>





Agenda Item #  
Meeting Date

August 14, 2007

**COUNCIL AGENDA ITEM SUMMARY**  
City Of Tigard, Oregon

Issue/Agenda Title Consider a Mutual Aid and Assistance Agreement with the Oregon Water/Wastewater Agency Response Network (ORWARN)

Prepared By: Dennis Koellermeier Dept Head Approval:  City Mgr Approval: 

**ISSUE BEFORE THE COUNCIL**

Shall the City of Tigard enter into a mutual aid and assistance agreement with ORWARN and authorize the City Manager to execute the agreement?

**STAFF RECOMMENDATION**

Authorize the agreement.

**KEY FACTS AND INFORMATION SUMMARY**

- Events such as 9/11, the 1994 Northridge earthquake, the 1996 Oregon floods, and more recently Hurricane Katrina have highlighted the need for water and wastewater utilities to create intra-state mutual aid and assistance agreements.
- To that end, an Oregon-based group, ORWARN is being formed. The group's mission is to promote statewide emergency preparedness, disaster response, and mutual assistance for public and private water/wastewater utilities.
- The agreement is designed to:
  - Increase planning and coordination
  - Enhance access to specialized resources
  - Expedite arrival of aid
  - Reduce administrative conflict
  - Provide lists of emergency contacts and available resources
  - Facilitate federal recovery and funding processes
- The Intergovernmental Water Board passed a motion at its July 11, 2007 meeting recommending the City enter into the agreement.
- The agreement would not obligate the City to respond or provide aid and assistance, support would be completely voluntary.
- Most of Tigard's regional utility counterparts are electing to enter into this agreement.
- The agreement has been reviewed by the City Attorney.

**OTHER ALTERNATIVES CONSIDERED**

The Council could choose to not join ORWARN.

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#### CITY COUNCIL GOALS

None

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#### ATTACHMENT LIST

1. June 29, 2007 Memo to the Intergovernmental Water Board
2. ORWARN Brochure
3. ORWARN Mutual Aid and Assistance Agreement

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#### FISCAL NOTES

There are no costs associated with the City's participation in ORWARN.



# MEMORANDUM

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TO: Intergovernmental Water Board Commissioners

FROM: Public Works Director Dennis Koellermeier *DK*

RE: Participation in an Oregon Water/Wastewater Agency Response Network (ORWARN) Mutual Aid and Assistance Agreement

DATE: June 29, 2007

Attached for the Board's review are documents describing a new water-related mutual aid agreement developed for Oregon-based utilities. This agreement is completely voluntary and addresses the coordination of response activities and the sharing of resources during an emergency. The agreement also spells out general administrative functions and helps define what the requesting or assisting agencies are committing to, prior to an actual call for assistance.

Most of our regional utility partners are electing to join this group.

I suggest we follow suit and recommend the City of Tigard enter into the ORWARN Mutual Aid and Assistance Agreement.

## Why Should My Agency Join ORWARN?

- Increased planning and coordination.
- Enhanced access to specialized resources.
- A single agreement provides access to all member utilities statewide.
- Expedites arrival of aid
- Is consistent with the National Incident Management System (NIMS).
- Reduces administrative conflict.
- Agreement contains indemnification and worker's comp provisions to protect participating utilities, and provisions for reimbursement of costs, as needed.
- Provides list of emergency contacts and available resources.
- Response to any incident is voluntary.
- Improves probability for quick recovery.



## ORWARN Interim Board and Outreach

### Mike Gotterba, Chairman

City of Salem

503-588-6347

[mgotterba@cityofsaalem.net](mailto:mgotterba@cityofsaalem.net)

### Mike Stuhr, Vice Chair

Portland Water Bureau

503-823-1517

[mstuhr@water.ci.portland.or.us](mailto:mstuhr@water.ci.portland.or.us)

### Kevin Hanway, Secretary

City of Hillsboro Water

503-615-6585

[kevinha@ci.hillsboro.or.us](mailto:kevinha@ci.hillsboro.or.us)

### Neil Kennedy, Outreach Coordinator

Tualatin Valley Water District

503-848-3049

[neilk@tvwd.org](mailto:neilk@tvwd.org)

Watch for our new Web site:

[www.orwarn.org](http://www.orwarn.org)



## Oregon Water/Wastewater Agency Response Network

Attachment 2

## Utilities Helping Utilities

### ORWARN Mission:

Promote statewide emergency preparedness, disaster response, and mutual assistance for public and private water/wastewater utilities.

*An ounce of prevention is worth a pound of cure."*  
-Benjamin Franklin

# ORWARN Oregon Water/Wastewater Agency Response Network

Events such as 9/11, the 1994 Northridge earthquake, the 1996 Oregon flood, and more recently, Hurricane Katrina in 2005 identified a need for water and wastewater utilities to create intra-state mutual aid and assistance programs because:

- Utilities require specialized resources to sustain operations.
- Government response agencies and other critical infrastructure rely on water supplies.
- Utilities must provide their own support until state and federal resources are available.
- Large events impact regional areas, making assistance from nearby utilities impractical.
- Disasters impact utility employees and their families, creating greater need for relief.
- Agreements must be established pre-event for federal reimbursement.
- Promoting mutual aid/assistance meets FY06 Department of Homeland Security requirements.



The "Utilities Helping Utilities" concept is about creating an opportunity to enhance water and wastewater utility resiliency in response to disasters during the response and recovery phases.

Emergencies transcend political jurisdictional boundaries, and multi-utility coordination is essential for protecting lives and property and for facilitating the efficient use of available assets, both public and private.

ORWARN is designed to provide quick and professional assistance in any situation that overwhelms the capabilities of a water or wastewater utility. No formal declaration of emergency is needed, and assistance can take the form of personnel,



equipment, materials, or services. Member utilities may request mutual-aid deployment of emergency support to restore critical operations at the affected water/wastewater utility. Member agencies are never obligated to respond.



## WARN Initiative Encouraged By:

American Water Works Association

Association of Metropolitan Water Agencies

Association of State Drinking Water Administrators

Association of State and Interstate Water Pollution Control Administrators

National Rural Water Association

National Association of Clean Water Agencies

National Association of Water Companies

Oregon Department of Environmental Quality

Oregon Department of Human Services

Oregon Office of Emergency Management

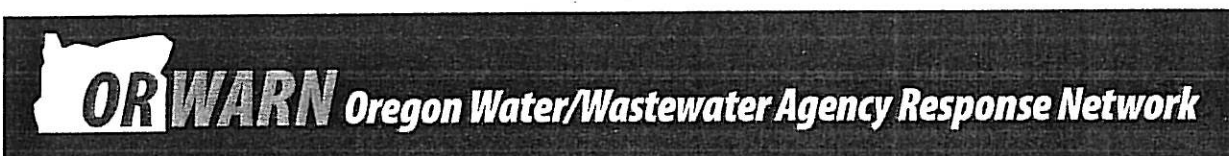
U.S. Environmental Protection Agency

Water Environment Federation



# Mutual Aid and Assistance Agreement

March 2007





## **MUTUAL AID AND ASSISTANCE AGREEMENT FOR THE PROVISION OF EMERGENCY SERVICES RELATED TO WATER AND WASTEWATER UTILITIES**

This Mutual Aid and Assistance Agreement ("Agreement") establishes a Mutual Aid Assistance Program among signatories to this Agreement, and contains procedures and standards for a water and wastewater utility Mutual Aid and Assistance Program.

### **AGREEMENT**

This Agreement is entered into by the Members and Associate Members, that have, by executing this Agreement, manifested their intent to enter into a Mutual Aid and Assistance Program. A list of all Members and Associate Members is attached as Exhibit A and shall be revised when a new Member or Associate Member is added to this Agreement.

### **ARTICLE I. PURPOSE**

Recognizing that emergencies may require assistance in the form of personnel, equipment, and supplies from outside the area of impact, the Members and Associate Members hereby establish a Mutual Aid and Assistance Program. Through the Mutual Aid and Assistance Program, Members and Associate Members may, in their discretion, coordinate response activities and share resources during emergencies. This Agreement sets forth the procedures and standards for the administration of the Mutual Aid and Assistance Program.

### **ARTICLE II. DEFINITIONS**

A. Associate Member Any municipal corporation, quasi-municipal corporation, service district, political subdivision or private utility company which has less than 1000 service connections that participates in the Mutual Aid and Assistance Program by executing this Agreement.

B. Authorized Official Employees or officers of a Member or Associate Member that are authorized to: (1) request assistance; (2) offer assistance; (3) refuse to offer assistance or (4) withdraw assistance under this Agreement.

C. Confidential Information Any document shared with any signatory of this Agreement that is marked confidential, including but not limited to any map, report, notes, papers, opinion, or e-mail which relates to the system vulnerabilities of a Member or Associate Member.

D. Emergency Any human caused or natural event or circumstance causing, or imminently threatening to cause, loss of life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material as defined in ORS 466.605, contamination, utility or transportation emergencies, disease, blight, infestation, civil disturbance, riot, intentional acts, sabotage and war that is, or could reasonably be believed to be beyond the control of the services, personnel, equipment, and facilities of a Member or Associate Member.

E. Member Any municipal corporation, quasi-municipal corporation, department or agency of a municipal corporation, department or agency of a quasi-municipal corporation, service district, political subdivision or private utility company that has a minimum of 1000 service connections that participates in the Mutual Aid and Assistance Program by executing this Agreement. If any municipal corporation, quasi-municipal corporation, department or agency of a municipal corporation, department or agency of a quasi-municipal corporation, service district, political subdivision or private utility company has separate water and wastewater operations, each one, if contracting separately, shall be deemed to be a Member for purposes of this Agreement if it has a minimum of 1000 service connections.

F. National Incident Management System (NIMS) A national, standardized approach to incident management and response that sets uniform processes and procedures for emergency response operations.

G. Non-Responding Member A Member or Associate Member that does not provide assistance during a Period of Assistance under the Mutual Aid and Assistance Program.

H. Period of Assistance A period of time during which a Responding Member assists a Requesting Member. The period commences when personnel, equipment, or supplies depart from a Responding Member's facility and ends when the Responding Member no longer supplies personnel, equipment, supplies or services to the Requesting Member.

I. Requesting Member A Member or Associate Member that requests assistance under the Mutual Aid and Assistance Program.



J. Responding Member A Member or Associate Member that responds to a request for assistance under the Mutual Aid and Assistance Program.

### **ARTICLE III.**

#### **ADMINISTRATION**

A. A Governing Board shall be established to organize and maintain the Mutual Aid and Assistance Program. The Governing Board shall be elected by ballot by a majority vote of the Members of this Agreement. Each Member shall have one vote. Only Members shall be eligible to serve on the Governing Board.

B. The Governing Board shall consist of 5 Members. The Governing Board will elect the following officers: a Chair; a Vice Chair; and a Secretary. The term of all board members shall be 2 years, except that in the first year the Agreement is in effect, the term of the Vice Chair and other board members shall be 1 year. A quorum shall be a majority of the members of the Governing Board.

C. The Governing Board shall meet at least twice each year, at a meeting place designated by the Governing Board. The Governing Board may make, establish and alter rules and regulations for its procedure consistent with generally recognized principles of parliamentary procedure. The Governing Board shall have the power to carry out the purposes of this Agreement, including but not limited to the power to: adopt bylaws; develop specific procedures and protocol for requesting assistance; develop specific procedures and protocol for responding to a request for assistance; organize meetings; operate a website; disseminate information; create informational brochures; create subcommittees; maintain membership lists; maintain equipment and supply inventory lists; and deal with membership issues.

### **ARTICLE IV.**

#### **REQUESTS FOR ASSISTANCE**

A. Member and Associate Member Responsibility: Members and Associate Members shall designate Authorized Official(s); provide contact information including emergency 24-hour contact information; and maintain resource information made available by the utility for mutual aid and assistance response. Such information shall be updated annually or when changes occur and provided to the Governing Board.

In the event of an Emergency, a Member's or Associate Member's Authorized Official may request mutual aid and assistance from a participating Member or Associate Member. Requests for assistance can be made orally or in writing. When made orally, the request for personnel, equipment, and supplies shall be provided in writing as soon as practicable. Requests for assistance shall

be directed to the Authorized Official of the participating Member or Associate Member. The Governing Board shall develop specific protocols for requesting aid in bylaws, as amended from time to time.

B. Response to a Request for Assistance: After a Member or Associate Member receives a request for assistance, the Authorized Official evaluates whether resources are available to respond to the request for assistance. Following the evaluation, the Authorized Official shall inform, as soon as possible, the Requesting Member whether it has the resources to respond. If the Member or Associate Member is willing and able to provide assistance, in its sole discretion, the Member or Associate member shall inform the Requesting Member about the type of available resources and the approximate arrival time of such assistance.

C. Discretion of Responding Member's Authorized Official: Execution of this Agreement does not create any duty to respond to a request for assistance. When a Member or Associate Member receives a request for assistance, the Authorized Official shall have sole and absolute discretion as to whether or not to respond to the request, and the availability of resources to be used in such response. All Authorized Official's decisions on the availability of resources shall be final unless overridden by the Member or Associate Member's governing body.

## **ARTICLE V.**

### **RESPONDING MEMBER PERSONNEL**

A. National Incident Management System: When providing assistance under this Agreement, the Requesting Member and Responding Member will use the organizational principles set forth in the National Incident Management System.

B. Control: Responding Member personnel shall remain under the direction and control of the Responding Member. The Requesting Member's Authorized Official shall coordinate response activities with the designated supervisor(s) of the Responding Member(s). Whenever practical, Responding Member personnel must be self sufficient for up to 72 hours.

C. Food and Shelter: When possible, the Requesting Member shall supply reasonable food and shelter for Responding Member personnel. If the Requesting Member does not provide food and shelter for responding personnel, the Responding Member's designated supervisor is authorized to secure the resources reasonably necessary to meet the needs of its personnel. Except as provided for below, the cost for such resources must not exceed the State per diem rates for that area. To the extent Food and Shelter costs exceed the State per diem rates for the area, Responding Member must demonstrate that the additional costs were reasonable and necessary under the circumstances.

Unless otherwise agreed to in writing, the Requesting Member remains responsible for reimbursing the Responding Member for all reasonable and necessary costs associated with providing food and shelter, if such resources are not provided.

D. Communication: The Requesting Member shall provide Responding Member personnel with radio equipment as available, or radio frequency information to program existing radio equipment, in order to facilitate communications with local responders and utility personnel.

E. Licenses and Permits: To the extent permitted by law, Responding Member personnel who hold valid licenses, certificates, or permits evidencing professional, mechanical, or other skills shall be allowed to carry out activities and tasks relevant and related to their respective credentials during the specified Period of Assistance.

F. Right to Withdraw: The Responding Member's Authorized Official retains the right to withdraw some or all of its resources at any time for any reason in the Responding Member's sole and absolute discretion. Responding Member(s) shall have no liability from a decision to withdraw. Notice of intention to withdraw must be communicated to the Requesting Member's Authorized Official as soon as is practicable under the circumstances.

## **ARTICLE VI**

### **COST REIMBURSEMENT**

A. Cost Reimbursement: Unless otherwise mutually agreed by the Requesting Member and the Responding Member, the Requesting Member shall reimburse the Responding Member for each of the following categories of costs incurred while providing aid and assistance during the Period of Assistance.

B. Personnel Costs: Responding Member personnel costs shall be the amount to be paid for work performed by the Responding Member's personnel during a Period of Assistance under the terms and conditions of the Responding Member's individual employment contracts with such personnel. The Responding Member's designated supervisor(s) shall keep accurate records of work performed by personnel during the Period of Assistance. Requesting Member reimbursement to the Responding Member shall include all personnel costs incurred by the Responding Member, including, but not limited to, salaries or hourly wages, costs for fringe benefits, and indirect costs.

C. Costs of Equipment: The Requesting Member shall reimburse the Responding Member for the use of equipment during a Period of Assistance,

including, but not limited to, reasonable rental rates, all fuel, lubrication, maintenance, transportation, and loading/unloading of loaned equipment. All equipment shall be returned to the Responding Member as soon as is practicable and reasonable under the circumstances. Generally, rates for equipment use will be based on the Federal Emergency Management Agency's (FEMA) Schedule of Equipment Rates. If a Responding Member uses rates different from those in the FEMA Schedule of Equipment Rates, the Responding Member must provide such rates orally or in writing to the Requesting Member prior to supplying equipment. Mutual agreement on which rates are used must be reached in writing prior to dispatch of the equipment. Reimbursement for equipment not referenced on the FEMA Schedule of Equipment Rates must be developed based on actual recovery of costs. In the event loaned equipment is damaged while being dispatched to Requesting Member, or while used during a Period of Assistance, and such damage is not due to negligence or intentional acts of the Responding Member, Requesting Member shall reimburse Responding Member for the reasonable cost of repairing such damaged equipment. If the damaged equipment cannot be repaired, then Requesting Member shall reimburse Responding Member for the reasonable cost of replacing such damaged equipment with equipment that is of equivalent age, condition and of at least equal capability. If Responding Member must lease a piece of equipment while its equipment is being repaired, Requesting Member shall reimburse Responding Member for such rental costs.

D. Costs of Materials and Supplies: The Requesting Member must reimburse the Responding Member in kind or at actual replacement cost, plus handling charges, for Responding Member's use of expendable or non-returnable supplies during the Period of Assistance. The Responding Member must not charge direct fees or rental charges to the Requesting Member for supplies and reusable items that are returned to the Responding Member in a clean, damage-free condition. Reusable supplies that are returned to the Responding Member with damage shall be treated as expendable supplies or non-returnable for purposes of cost reimbursement.

E. Payment Period: The Responding Member must provide an itemized bill to the Requesting Member for all expenses incurred by the Responding Member in providing assistance under this Agreement, not later than ninety (90) days following the end of the Period of Assistance. The Responding Member may request additional periods of time within which to submit the itemized bill, and Requesting Member shall not unreasonably withhold consent to such request. The Requesting Member shall pay the bill in full on or before the forty-fifth (45th) day following the billing date. The Requesting Member may request additional periods of time within which to pay the itemized bill, and Responding Member shall not unreasonably withhold consent to such request, provided, however, that all payment shall occur not later than one-year after the date a final itemized bill is submitted to the Requesting Member.

F. Records: Each Responding Member and their duly authorized representatives shall have access to a Requesting Member's books, documents, notes, reports, papers and records which are directly pertinent to this Agreement for the purposes of reviewing the accuracy of a cost bill or making a financial, maintenance or regulatory audit. Each Requesting Member and their duly authorized representatives shall have access to a Responding Member's books, documents, notes, reports, papers and records which are directly pertinent to this Agreement for the purposes of reviewing the accuracy of a cost bill or making a financial, maintenance or regulatory audit. Such records shall be maintained for at least three (3) years or longer where required by law.

## **ARTICLE VII. DISPUTES**

If a dispute arises between Members and/or Associate Members under this Agreement, the disputing Members and/or Associate Members shall first attempt to resolve the dispute by negotiation, followed by mediation and finally by filing an action in a court of competent jurisdiction.

Step One: The disputing Members and/or Associate Members shall authorize a person ("Authorized Official") to negotiate on their behalf. If the dispute is resolved at this step, there shall be a written determination of such resolution, signed the disputing Members or Associate Members' Authorized Official and ratified by each governing body, if required. Step One will be completed when notice is delivered in writing to all disputing Members and/or Associate Members.

Step Two: If the dispute cannot be resolved within fifteen (15) business days at Step One, the disputing Members and/or Associate Members shall submit the matter to mediation. The disputing Members and/or Associate Members shall attempt to agree on a mediator. If they cannot agree, the disputing Members and/or Associate Members shall request a list of five (5) mediators from an entity or firm providing mediation services. The disputing Members and/or Associate Members will mutually agree on a mediator from the list provided. If the disputing Members and/or Associate Members cannot mutually agree upon a mediator, the disputing Members and/or Associate Members shall alternatively strike one name from the list until one mediator remains. The remaining mediator shall be the mediator for the dispute. Any



common costs of mediation shall be borne equally by the disputing Members and/or Associate Members who shall each bear their own costs and fees. If the issue is resolved at this step, a written determination of such resolution shall be signed by each Authorized Official and ratified by their respective governing bodies, if necessary.

Step Three: If the disputing Members and/or Associate Members are unsuccessful at Steps One and Two, the dispute shall be resolved by a State of Oregon court of competent jurisdiction. Venue shall be in the jurisdiction of the Responding Member, subject to statutory limitations.

**ARTICLE VIII.**  
**DUTY OF REQUESTING MEMBERS AND ASSOCIATE MEMBERS TO**  
**INDEMNIFY**

Subject to the Oregon Constitution, the limits imposed under the Oregon Tort Claims Act, and laws of the state of Oregon applicable to local governments, the Requesting Member shall assume the defense of, fully indemnify, save and hold harmless, the Responding Member, its officers, agents and employees, from all claims, suits, actions, loss, damage, injury, and liability of every kind, nature, and description, directly or indirectly arising from Responding Member's work during a specified Period of Assistance, except for claims arising out of the willful misconduct or gross negligence of Responding Member, its officers, agents and employees.

**ARTICLE IX.**  
**SIGNATORY INDEMNIFICATION**

To the extent not addressed in Article VIII, and subject to the Oregon Constitution and limits imposed under the Oregon Tort Claims Act, a Requesting Member shall have a duty to defend, indemnify, save and hold harmless all Non-Responding Members, their officers, agents and employees from any liability, claim, demand, action, or proceeding of whatever kind or nature arising out of a Period of Assistance.

**ARTICLE X.**  
**WORKER'S COMPENSATION CLAIMS**

Each Responding Member shall provide worker's compensation benefits and administering worker's compensation for its own personnel.

**ARTICLE XI.**  
**NOTICE**

A Member or Associate Member that becomes aware of a claim or suit that in any way, directly or indirectly, contingently or otherwise, affects or might affect other Members or Associate Members of this Agreement shall provide prompt and timely notice to the Members and Associate Members that may be affected by the suit or claim. Each Member and Associate Member reserves the right to participate in the defense of such claims or suits as necessary to protect its own interests.

**ARTICLE XII.**  
**INSURANCE**

Members and Associate Members of this Agreement shall maintain an appropriate insurance policy or maintain a self-insurance program that covers activities that it may undertake by virtue of membership in the Mutual Aid and Assistance Program.

**ARTICLE XIII**  
**CONFIDENTIAL INFORMATION**

To the extent provided by law, any Member or Associate Member shall maintain in the strictest confidence and shall take all reasonable steps necessary to prevent the disclosure of any Confidential Information disclosed under this Agreement. If any Member, Associate Member, third party or other entity requests or demands, by subpoena or otherwise, that a Member or Associate Member disclose any Confidential Information disclosed under this Agreement, the Member or Associate Member shall immediately notify the owner of the Confidential Information and shall take all reasonable steps necessary to prevent the disclosure of any Confidential Information by asserting all applicable rights and privileges with respect to such information and shall cooperate fully in any judicial or administrative proceeding relating thereto.

**ARTICLE XIV.**  
**EFFECTIVE DATE AND PROCESS TO ADD NEW MEMBERS**

This Agreement shall be effective after two (2) or more entities' authorized representatives execute the Agreement. Membership shall become effective upon executing this Agreement. A list of all Members and Associate Members shall be maintained by the Governing board and is available upon request from a Governing Board.

**ARTICLE XV.**  
**TERM**

Unless restricted by Oregon statutes, municipal Charters and corporate Charters, the term of this Agreement shall be for 5 years and shall be automatically renewed for additional terms of five years each, unless terminated by Majority vote of the Governing Board. Termination of this Agreement shall in no way affect a Requesting Member's duty to reimburse a Responding Member for cost incurred during a Period of Assistance, or for any other costs voluntarily incurred during the withdrawing Member's or Associate Member's membership, which duty shall survive such termination.

**ARTICLE XVI.**  
**WITHDRAWAL**

A Member or Associate Member may withdraw from this Agreement by providing written notice of its intent to withdraw to the Governing Board. Withdrawal takes effect 60 days after the Governing Board receives notice. Withdrawal from this Agreement shall in no way affect a Requesting Member's duty to reimburse a Responding Member for cost incurred during a Period of Assistance, which duty shall survive such withdrawal.

**ARTICLE XVII.**  
**MODIFICATION**

No provision of this Agreement may be modified, altered, or rescinded by individual Members or Associate Members to the Agreement. Modifications (except Modifications to Article III and Article XVII) require a majority vote of the Members of the Governing Board (3) or a majority vote of the Members of this Agreement. Modifications to Article III and Article XVII require a majority vote of the Members to this Agreement. Approved modifications take effect 60 days after the date upon which notice is sent to the Members and Associate Members, except that the addition of a new Member becomes effective upon execution of this Agreement.

**ARTICLE XVIII.**  
**NO THIRD PARTY BENEFICIARIES**

The signatories to this Agreement are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide, any benefit or right,



whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

**ARTICLE XIX.**  
**WAIVER**

No provision of this Agreement may be waived except in writing by the Member or Associate Member waiving compliance. No waiver of any provision of this Agreement shall constitute waiver of any other provision, whether similar or not, nor shall any one waiver constitute a continuing waiver. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision or of any other provision.

**ARTICLE XX.**  
**SEVERABILITY**

The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

**ARTICLE XXI.**  
**EXECUTION IN COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, an authorized representative of a Member or Associate Member has duly executed this Mutual Aid and Assistance Agreement as of the date referenced below. An ORWARN representative will acknowledge receipt of the Mutual Aid and Assistance Agreement and return a copy to the Member or Associate Member.

**MEMBER OR ASSOCIATE MEMBER**

APPROVED AS TO FORM:

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Print Name \_\_\_\_\_

**ORWARN ACKNOWLEDGMENT**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_


Print Name \_\_\_\_\_

Agenda Item #  
Meeting Date

August 14, 2007

**COUNCIL AGENDA ITEM SUMMARY**  
City Of Tigard, Oregon

Issue/Agenda Title Consider an Amendment to the Intergovernmental Agreement with Clean Water Services (CWS)

Prepared By: Dennis Koellermeier Dept Head Approval:  City Mgr Approval: 

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**ISSUE BEFORE THE COUNCIL**

Shall the City Council approve an amendment to the intergovernmental agreement with CWS and authorize the City Manager to execute the amendment?

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**STAFF RECOMMENDATION**

Approve the amendment and authorize the City Manager to execute the amendment.

---

**KEY FACTS AND INFORMATION SUMMARY**

- The City and Clean Water Services executed an intergovernmental agreement in 2005 regarding the operation of sanitary sewer and surface water services within City boundaries. The roles and responsibilities of each party were outlined in the agreement.
- At the time of this agreement, it was envisioned that a shift of responsibilities between the City and CWS would occur at a future date. Ongoing discussions between the two parties have proven to be complicated. The City and CWS have not yet reached an agreement regarding the final responsibilities and the equitable funding mechanism for those responsibilities.
- Tigard is one of several cities that provide sanitary sewer and surface water services within CWS' boundaries. The cities providing these services have agreed to a financial study which will establish costs for various services and responsibilities. The study will be completed later this year and will allow negotiations to go forward.
- The current amendment extends the existing agreement for one more year while the financial study is conducted. Appendix A outlines the responsibilities of each party through June 30, 2008.

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**OTHER ALTERNATIVES CONSIDERED**

The City Council could choose to not amend the agreement.

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**CITY COUNCIL GOALS**

None

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ATTACHMENT LIST

1. Amendment  
Appendix A

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FISCAL NOTES

Approving this amendment does change the cost of providing of sanitary sewer and surface water service this fiscal year.

## Attachment 1

The City of Tigard and Clean Water Services hereby agree to amend the Appendix A – Division of Responsibilities of their intergovernmental agreement (IGA) dated January 25, 2005 from the current end date of June 30, 2007 to June 30, 2008. The second Appendix A effective July 1, 2007 is hereby removed.

Per Section 3.B.1 of the IGA, this change can be made with approval of the City Manager of Tigard or designee and the District Manager or designee.

A copy of the amended Appendix A is attached.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2007

CLEAN WATER SERVICES  
OF WASHINGTON COUNTY, OREGON

CITY OF TIGARD, OREGON

By \_\_\_\_\_  
General Manager

By \_\_\_\_\_  
City Manager

APPENDIX A	Amended May 2007		
<b>DIVISION OF RESPONSIBILITIES</b>	<b>EFFECTIVE THROUGH JUNE 30, 2008</b>		
<b>TIGARD</b>			
Basic Workplan	Inside City Limits	Outside City Limits	
<b>Sanitary Maintenance</b>			
Lines under 24"			
Line Cleaning	City	District	
Root Cutting	City	District	
Emergency response	City	District	
Overflow and Complaint response and investigation	City	District	
Cross connection investigation and response	City	District	
Manhole adjustment	City	District	
Non-structure line sealing and point repair	City	District	
Manhole rehabilitation (sealing)	City	District	
TV inspection	City	District	
Compilation of TV reports and system evaluation	City	District	
I&I abatement and system rehabilitation projects	District and City	District	
Root Foaming	City	District	
Structural line repairs	City	District	
Line replacements	City	District	
Pump station maintenance	District	District	
Lines 24" and Larger			
All maintenance, inspection, repair, and replacement	District	District	
<b>SWM Maintenance</b>			
Line Cleaning	City	District	
Root Cutting	City	District	
Catch Basin cleaning	City	District	
Water quality manhole maintenance	City	District	
Storm and emergency response	City	District	
Complaint response and investigation	City	District	
Street Sweeping	City	District	
Water Quality facility maintenance	City for local District for Regional	District	
Water Quantity facility maintenance	City for local District for Regional	District	
Maintenance of public Streams/creeks/open channels	City	District	
Processing and disposal of sweeper, catch basin and storm line material	City	District	
Structural line repairs	City	District	
Line replacements	City	District	
Pump station maintenance and operation	District	District	

Roadside ditches and piping system in County Roads	District	District	
TV inspection	City	District	
Compilation of TV reports and system evaluation	City	District	
Proactive Leaf management program	City	District	
<b>ENGINEERING, INSPECTION, AND SUPPORT ELEMENTS</b>			
Development Process (development review, plan review)	City	District	
Sanitary Sewer connection permit issuance	City	District	
SWM connection permit issuance	City	District	
Billing and collection of monthly service charges	City	District	
Inspection of developer projects	City	District	
Installation of Sanitary Sewer Masterplan Projects	City 21" and less, District 24" & up	District	
Installation of Masterplan Pump Station Projects	District	District	
Installation of SWM Masterplan Projects	City	District	
Erosion control permit issuance	City	District	
Erosion control inspection	District	District	
Accounting	City	District	
Industrial Waste Program	District	District	
Maintaining GIS information	City and District	District	
Maintaining system mapping	City and District	District	
Maintaining Engineering records of systems	City and District	District	
Preparing and revising sanitary sewer masterplans	District	District	
Preparing and revising SWM masterplans	District	District	
Response to customer billing inquiries	City	District	
Public information, newsletters, etc., for SWM and Sanitary programs	City and District	District	

Agenda Item #

Meeting Date

August 14, 2007

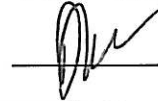
## COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Consider a Third Amendment to the Joint Funding Agreement for the Integrated Water Resource Management (IWRM) Water Supply Feasibility Study (aka Tualatin Basin Water Supply Project)

Prepared By: Dennis Koellermeier

Dept Head Approval:



City Mgr Approval:



### ISSUE BEFORE THE COUNCIL

Shall the City Council approve a third amendment to the Joint Funding Agreement for the IWRM Water Supply Feasibility Study and authorize the Mayor to execute the amendment?

### STAFF RECOMMENDATION

Approve the amendment.

### KEY FACTS AND INFORMATION SUMMARY

- The City of Tigard has been a partner in the Tualatin Basin Water Supply Project since the project's inception in 2001. The City currently owns a 16.35 percent share in the proposed project, which will provide the Tigard Water Service Area up to 15.7 million gallons per day of stored water when built.
- Tigard has participated fully in the partnership, signing an initial agreement, and a subsequent first amendment. (A second amendment to the agreement was withdrawn.) The City has invested approximately \$820,000 in the project to date.
- The City is now being asked to consider a third amendment. One of the driving forces behind the amendment is the addition of the Title Transfer Project. This project will investigate a title transfer of the Scoggins Dam and Hagg Lake facilities from federal to local control. The transfer is expected to expedite the project and lower project costs.
- The third amendment would:
  - Authorize payment of up to \$217,445 to complete additional tasks related to the Draft Planning Report/Environmental Impact Study and to fund the Title Transfer Project
  - Allow a partner to recover the costs of any real property purchases, should that partner voluntarily withdraw from the project
- The Intergovernmental Water Board passed a motion at its July 11, 2007 meeting recommending the City approve the amendment.
- Should the City choose not to approve this amendment, our partners would assume the City has withdrawn from the project, and our water allotment would be reallocated.
- The amendment has been reviewed by the City Attorney.

### OTHER ALTERNATIVES CONSIDERED

The City Council could choose not to approve the amendment. This would likely result in the City's withdrawal from the partnership.



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#### CITY COUNCIL GOALS

None

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#### ATTACHMENT LIST

1. June 29, 2007 Memo to the Intergovernmental Water Board
2. Third Amendment to the Joint Funding Agreement for the IWRM Water Supply Feasibility Study

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#### FISCAL NOTES

The third amendment authorizes payment of up to \$217,445; funds in the amount of \$400,000 have been appropriated for this project in the FY '07/'08 budget.



## MEMORANDUM

TO: Intergovernmental Water Board Commissioners

FROM: Public Works Director Dennis Koellermeier *DK*

RE: Amendment to the Joint Funding Agreement for the Tualatin Basin Water Supply Project

DATE: June 29, 2007

Attached for your review, and possible recommendation to the City of Tigard, is a proposed amendment to the Joint Funding Agreement for the Tualatin Basin Water Supply Project. One of the major drivers for this amendment is the addition of the Title Transfer Project. In April of this year, the IWB passed Resolution No. 07-01 supporting the investigation of a title transfer from the Bureau of Reclamation to local ownership. This amendment authorizes payment of up to \$217,445 to complete additional tasks related to the Draft Planning Report/Environmental Impact Study and to fund the Title Transfer Project.

The Tigard Water Service Area (TWSA) has participated in the Tualatin Basin Water Supply Project since 2001; \$820,003 has been spent to date. Clean Water Services manages the project, and fellow partners include Tualatin Valley Water District, and the Cities of Hillsboro, Beaverton, and Forest Grove. Failure to support this amendment would cause the other partners to assume we have withdrawn from the project, and our water allotment would be reallocated.

I estimate we will be in a position to decide whether to continue or voluntarily withdraw from this partnership sometime this fall. Given our somewhat uncertain status regarding the project, the partners have assured me that if we withdraw, our costs would be frozen at that point. We would not be held financially responsible for work completed after our involvement in the project has ceased.

Based upon these facts, I propose the IWB recommend the City of Tigard approve the third amendment to the Joint Funding Agreement for the Tualatin Basin Water Supply Project.

**THIRD AMENDMENT  
TO JOINT FUNDING AGREEMENT FOR  
IWRM WATER SUPPLY FEASIBILITY STUDY  
(AKA AS TUALATIN BASIN WATER SUPPLY PROJECT)**

This Amendment, dated \_\_\_\_\_, 2007 is between Clean Water Services (District), formerly known as Unified Sewerage Agency, a county service district formed by authority of ORS 451, the Tualatin Valley Water District, a domestic water district formed by authority of ORS 264 and the cities of Hillsboro, Beaverton, Forest Grove and Tigard, all municipal corporations of the State of Oregon (Partners) and amends the parties' Joint Funding Agreement – IWRM Water Supply Feasibility Study dated June 20, 2001 as amended by the First Amendment dated November 14, 2002, and the Second Amendment dated December 4, 2003 (collectively, JFA).

**RECITALS**

1. The Partners previously entered into the JFA under which the Partners agreed to jointly fund a study of the feasibility of alternative approaches to increase the water supply and evaluate the "no action alternative."
2. The Partners now wish to amend the JFA to fund additional tasks to complete the Tualatin Basin Water Supply Project Draft Planning Report/ Environmental Impact Statement, and Title Transfer Project (collectively, Project). The Water Supply Feasibility Study was completed in March 2004.
3. The Partners also wish to amend the JFA to address the acquisition and disposition of Project assets upon termination of the JFA or termination of any Partner's participation in the JFA secured during the development of the Project.

**TERMS AND CONDITIONS**

1. Section 2 of the JFA is hereby deleted in its entirety and replaced with the following:
  - "2. Cost Share  
Each party's share of the cost of the Project shall be proportional to the party's projected share of the additional water supply as of the date of this agreement, assuming 50,600 acre-feet of additional supply. The cost share for each party shall be equal to the percentage indicated in Exhibit B attached hereto and incorporated herein."
2. Pursuant to Section 4 of the JFA, the cities of Cornelius, Banks, North Plains, Sherwood and Tualatin voluntarily terminated their rights and obligations under the JFA. Other Partners have assumed their rights and obligations as identified in Exhibit B.

3. From the effective date of this Amendment, each Partner shall compensate District for its share of the cost of the Project as provided in Exhibit B attached hereto and incorporated herein. A revised payment schedule with reallocation of each Partner's share is included in Exhibit B. Total payment to District for compensation for services provided during fiscal year 2007-2008 shall not exceed \$1.33 million.

4. The first sentence of Section 4 of the JFA is hereby deleted and replaced with the following:

"Except as otherwise indicated in this Section, no party may terminate its rights and obligations under this Agreement until the Project is completed or a total of \$5,797,400 has been expended, whichever occurs first."

5. Exhibit A of the JFA is hereby replaced with Exhibit A attached hereto and incorporated herein.

6. The previous Amendments to the JFA included funding for future real property purchases and other capital assets.

7. The purpose of this agreement is to enable the Partners to acquire real property, easements and other real property interests necessary for the Project (collectively, Property). The Partners grant District the authority to acquire Property necessary for the Project and to sign any documents on behalf of the Partners to purchase the Property. Any real property acquired shall be owned by the Partners as tenants in common.

8. Section 4 of the JFA established the conditions which must be met for any Partner to voluntarily terminate its rights and obligations. If any funding Partner terminates its rights and obligations under the JFA, it shall, upon the sale or transfer of any interest in the Project property, receive a share equal to the lesser of the following: a) the amount that the terminating Partner paid to purchase the Project property less that Partner's prorata share of all expenses incurred with respect to the Property including but not limited to costs of repairs, maintenance, debt service, all real and personal property taxes, governmental or other assessments levied against the Project property, title insurance premium, real estate commission, escrow fee, appraisal fee, recording fees and any other expenses incurred in connection with the sale or acquisition of the Project property (the foregoing expenses shall be referred to collectively as Expenses) or b) the amount of the terminating Partner's prorata share of the actual purchase price of the Project property less that Partner's prorata share of Expenses. The terminating Partner shall deliver to the nonterminating Partners a duly executed statutory warranty deed conveying the terminating Partner's interest in the Project property to the nonterminating Partners, or any other Partner that the nonterminating Partners may designate, free and clear of all liens and encumbrances except those existing as of the date such Partner terminated its interest in the JFA.

9. If the Project property is not sold or transferred within three years of the voluntary termination of any Partner, the nonterminating Partners shall purchase the terminating Partner's interest in the Project property in an amount equal to each nonterminating Partner's share as identified in the JFA. The nonterminating Partners shall have the Project property appraised and shall pay the terminating Partner the lesser of the following: a) the amount that the terminating Partner paid to purchase the Project property less that Partner's prorata share of all expenses incurred with respect

to the Property including but not limited to costs of repairs, maintenance, debt service, all real and personal property taxes, governmental or other assessments levied against the Project property and the prorata share of the appraisal fee (collectively, Costs) or b) the amount of the terminating Partner's prorata share of the actual appraised value of the Project property less that Partner's prorata share of Costs. The terminating Partner shall deliver to the nonterminating Partners a duly executed statutory warranty deed conveying the terminating Partner's interest in the Project property to the nonterminating Partners, or any other Partner that the nonterminating Partners may designate, free and clear of all liens and encumbrances except those existing as of the date such Partner terminated its interest in the JFA.

10. If the Partners decide to terminate the JFA, they shall have the Project property appraised and list it for sale. Each Partner shall receive its prorata share of the actual purchase price of the Project property less such Partner's prorata share of Expenses. No terminating Partner shall be reimbursed for any other Project costs incurred before termination.

11. This Amendment shall be effective upon signing of all parties.

12. Except as amended herein, the JFA shall remain in full force and effect.

The above is hereby agreed to by the Partners and executed by the duly authorized representatives below:

CLEAN WATER SERVICES

APPROVED AS TO FORM

By: \_\_\_\_\_

\_\_\_\_\_  
District General Counsel

Date: \_\_\_\_\_

TUALATIN VALLEY WATER DISTRICT

APPROVED AS TO FORM

By: \_\_\_\_\_

\_\_\_\_\_  
Attorney

Date: \_\_\_\_\_

CITY OF HILLSBORO

APPROVED AS TO FORM

By: \_\_\_\_\_

\_\_\_\_\_  
Attorney

Date: \_\_\_\_\_

CITY OF BEAVERTON

APPROVED AS TO FORM

By: \_\_\_\_\_

\_\_\_\_\_  
Attorney

Date: \_\_\_\_\_

CITY OF FOREST GROVE

APPROVED AS TO FORM

By: \_\_\_\_\_

\_\_\_\_\_  
Attorney

Date: \_\_\_\_\_

CITY OF TIGARD

APPROVED AS TO FORM

By: \_\_\_\_\_

\_\_\_\_\_  
Attorney

Date: \_\_\_\_\_

## **Exhibit A**

### ***SCOPE OF WORK AND PROJECT ELEMENTS***

### ***TUALATIN BASIN WATER SUPPLY PROJECT***

The following is a review of the various phases and project elements:

#### *Water Supply Project – Completion of Draft Planning Report/Environmental Impact Statement (PR/DEIS)*

1. Complete Draft PR/EIS for public review and distribution.
2. Coordinate with Bureau of Reclamation on existing operations ESA consultation.
3. Prepare Biological Assessment and Fish and Wildlife Coordination Act reports for Water Supply Project consultations.

#### *Title Transfer Project - Draft Environmental Assessment Review (EA) for Title Transfer Process*

1. Develop Draft EA for Title Transfer

#### *Additional Combined Projects Elements*

The following are additional Project elements handled with separate contracts or agreements:

1. Governmental and Public Affairs – Consultant contracts to continue efforts to secure federal funding assistance, and community support at local, regional and national levels. Additional resources will be developed based on a comprehensive public affairs strategy.
2. Bureau of Reclamation (BOR) Pacific Northwest Regional Office and Technical and Engineering Services
  - a. Comprehensive Facilities Review – Inspect and assess condition of Reclamation Facilities. Develop the recommended improvements and cost estimates for the improvements.
  - b. Biological Resources Coordination – Coordinate of existing operations consultation with EIS and permitting requirements. Determine environmental and associated mitigation elements, such as wetlands, fish and wildlife mitigation areas implementation.
3. Governance Structure Development and Contract Negotiations for Title Transfer Project
  - a. Conduct a governance structure development process with local agencies to establish an organization(s) to accept the rights and responsibilities of the transferred Reclamation Facilities. A contractor will assist with development, negotiations and preparation of the various contractual and intergovernmental agreements with the Partners. The contractual elements will include operations, management and administration of the transferred facilities.



4. Land Survey and Easement investigation
  - a. Conduct a land survey, title search and related real estate activities to determine the status of the Reclamation lands and interests for the potential title transfer project. These services may include surveying, appraisals, document research and environmental assessments for the various elements of the Title Transfer Project. Continued coordination with Reclamation Lands Resources staff on review of lands acquisition needs and requirements.
5. Clean Water Services Project Management – Continued project management and staff support for the Water Supply and Title Transfer Projects.
6. Miscellaneous expenses – The tasks and elements of the Project not currently provided for in the above listed items.

**Tualatin Basin Water Supply Project and Tualatin Project Title Transfer**  
**Payment Schedule for Title Transfer and WSP Draft Environmental Impact Statement Phase**  
**For FY07-08 - WSP - JFA 3rd amendment**  
 Project Manager - Tom VanderPlaats

Date 5/4/07

**EXHIBIT B**  
**PAYMENT SCHEDULE**  
 (Based on reallocation and Percentage Share)

	Water		% Share	Total	FY07-08	FY07-08	FY07-08	FY07-08	FY07-08
	Allocations			Costs	Qtr1	Qtr 2	Qtr 3	Qtr 4	Total
	Ac - ft	MGD		100.0%	Jul-Sep	Oct-Dec	Jan- Mar	Apr-Jun	
					20.0%	30.0%	30.0%	20.0%	100.0%
<b>Water Quality **</b>									
Clean Water Services	9,320	25.3	17.62%	\$234,334	\$46,867	\$70,300	\$70,300	\$46,867	\$234,334
<b>M&amp;I ***</b>									
City of Tigard	8,649	15.7	16.35%	\$217,445	\$43,489	\$65,234	\$65,234	\$43,489	\$217,445
TVWD****	23,091	41.8	43.65%	\$580,558	\$116,112	\$174,167	\$174,167	\$116,112	\$580,558
City of Hillsboro	9,656	17.5	18.25%	\$242,770	\$48,554	\$72,831	\$72,831	\$48,554	\$242,770
City of Beaverton	1,763	3.2	3.33%	\$44,333	\$8,867	\$13,300	\$13,300	\$8,867	\$44,333
City of Forest Grove	420	0.8	0.79%	\$10,560	\$2,112	\$3,168	\$3,168	\$2,112	\$10,560
<b>Total M&amp;I</b>	<b>43,579</b>	<b>78.9</b>	<b>82.38%</b>	<b>\$1,095,666</b>	<b>\$219,133</b>	<b>\$328,700</b>	<b>\$328,700</b>	<b>\$219,133</b>	<b>\$1,095,666</b>
<b>Sub Total</b>	<b>52,900</b>	<b>104.2</b>	<b>100.00%</b>	<b>\$1,330,000</b>	<b>\$266,000</b>	<b>\$399,000</b>	<b>\$399,000</b>	<b>\$266,000</b>	<b>\$1,330,000</b>
WQ(exisiting)	12,618	22.8							
M&I (existing w/LOC)	14,000	25.3							
Irrigation	27,022								
Fish and Wildlife									
Recreation*	6,900								
Hydro power									
Flood Management									
<b>Total (active storage)</b>	<b>106,540</b>								
<b>Total Storage</b>	<b>113,440</b>			<b>\$1,330,000</b>					

\*Inactive (Dead) Storage

\*\* CWS demands based on 120 day season

\*\*\* M&I Demands based on 180 day season

\*\*\*\*Note - Sherwood Shares transferred to TVWD (2000 af)

Note: The Cities of North Plains, Cornelius and Banks elected not to sign the Joint Funding Agreement (JFA) - 2nd amendment. Cities of North Plains and Cornelius shares were transferred to City of Hillsboro

City of Banks shares were allocated proportionally to all Partners under the Joint Funding Agreement - Second Amendment. Cities of Tualatin and Sherwood have decided not sign the JFA- 3rd amendment and their shares will be allocated to TVWD.

The Worksheets will be reviewed following the release of the WSP draft PR/EIS

SCOGGINS DAM FEASIBILITY STUDY		
Joint Water Commission		
FY	Budget	Expenditures
07/08	\$400,000	n/a
06/07	\$430,000	\$0
05/06	\$389,490	\$0
04/05	\$389,490	\$389,490
03/04	\$230,929	\$239,536
02/03	\$80,000	\$163,416
01/02	\$0	\$27,561
<b>Total</b>	<b>\$1,519,909</b>	<b>\$820,003</b>

Agenda Item #

Meeting Date

August 14, 2007

## LOCAL CONTRACT REVIEW BOARD AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title: Award of Contract for Installation of a Traffic Signal at the Durham Rd/108<sup>th</sup> Ave Intersection

Prepared By: Vannie Nguyen *vn* Dept Head Approval: *TC* City Mgr Approval: *CL*

### ISSUE BEFORE THE LOCAL CONTRACT REVIEW BOARD

Shall the Local Contract Review Board approve the contract award for the installation of a traffic signal at the Durham Rd/108<sup>th</sup> Ave Intersection?

### STAFF RECOMMENDATION

Staff recommends that the Local Contract Review Board, by motion, approve the contract award to **NorthStar Electrical Contractors** in the amount of **\$154,000.00** and authorize an additional amount of \$15,000 to be reserved for contingencies and applied as needed as the project goes through construction. The total amount committed to the project is therefore **\$169,000.00**.

### KEY FACTS AND INFORMATION SUMMARY

- Traffic volumes on Durham Road have steadily increased since the mid 80's. Volumes will continue to increase because the street provides a direct connection between Highway 99W and Hall Blvd. Traffic from the residential area south of the Durham Rd/108<sup>th</sup> Ave intersection attempting to turn left onto Durham Road experiences excessive delay. Whenever the gaps in traffic flow are infrequent, the left-turn movements become difficult and are often unsafe. The problem has become worse as the residential developments along 108<sup>th</sup> Ave are completed creating increased volumes at the intersection. A traffic analysis indicates installation of a traffic signal would enhance traffic movements and safety at the intersection. The design for the signal was completed in June 2007.
- This project constructs a traffic signal and necessary roadway improvements at the intersection including wheelchair ramps and crosswalk markings.
- Upon completion of the installation, traffic will be controlled through a video detection system mounted on the signal pole at the intersection. This new detection device takes the place of traditional loop detectors that are installed in the pavement. The inductive loop detectors are not aesthetically pleasing and are expensive to replace when streets are resurfaced or require a pavement overlay.
- The project was advertised for bids on July 3, 2007 in the Daily Journal of Commerce and on July 5, 2007 in the Times. Bids were opened on July 17, 2007 and the bid results are:

NorthStar Electrical Contractors	Tualatin, OR	\$154,000.00 (low bid)
Signal Construction Group	Woodburn, OR	\$157,973.00
Electrical Construction	Albany, OR	\$166,847.00
<b>Engineer's Estimate Range</b>		<b>\$170,000 to \$210,000</b>

- The three bids are relatively close together and slightly less than the low Engineer's estimate. The bids suggest that the lower cost is a more accurate representation of the true cost and that the project estimate is high.
- NorthStar Electrical Contractors submitted the lowest responsible bid of \$154,000.00. Staff recommends approval of the contract award to this lowest bidder.
- Because it will take approximately two months to fabricate signal poles and mast arms, the contractor is allowed to have 100 calendar days to complete the installation. The construction is anticipated to start in early September and is expected to be completed by the end of this year.

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#### **OTHER ALTERNATIVES CONSIDERED**

N/A

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#### **COUNCIL GOALS**

This project addresses the Council goal of "Aggressively pursue funding to correct traffic congestion within the City." Installation of a traffic signal improves traffic movements and enhances safety.

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#### **ATTACHMENT LIST**

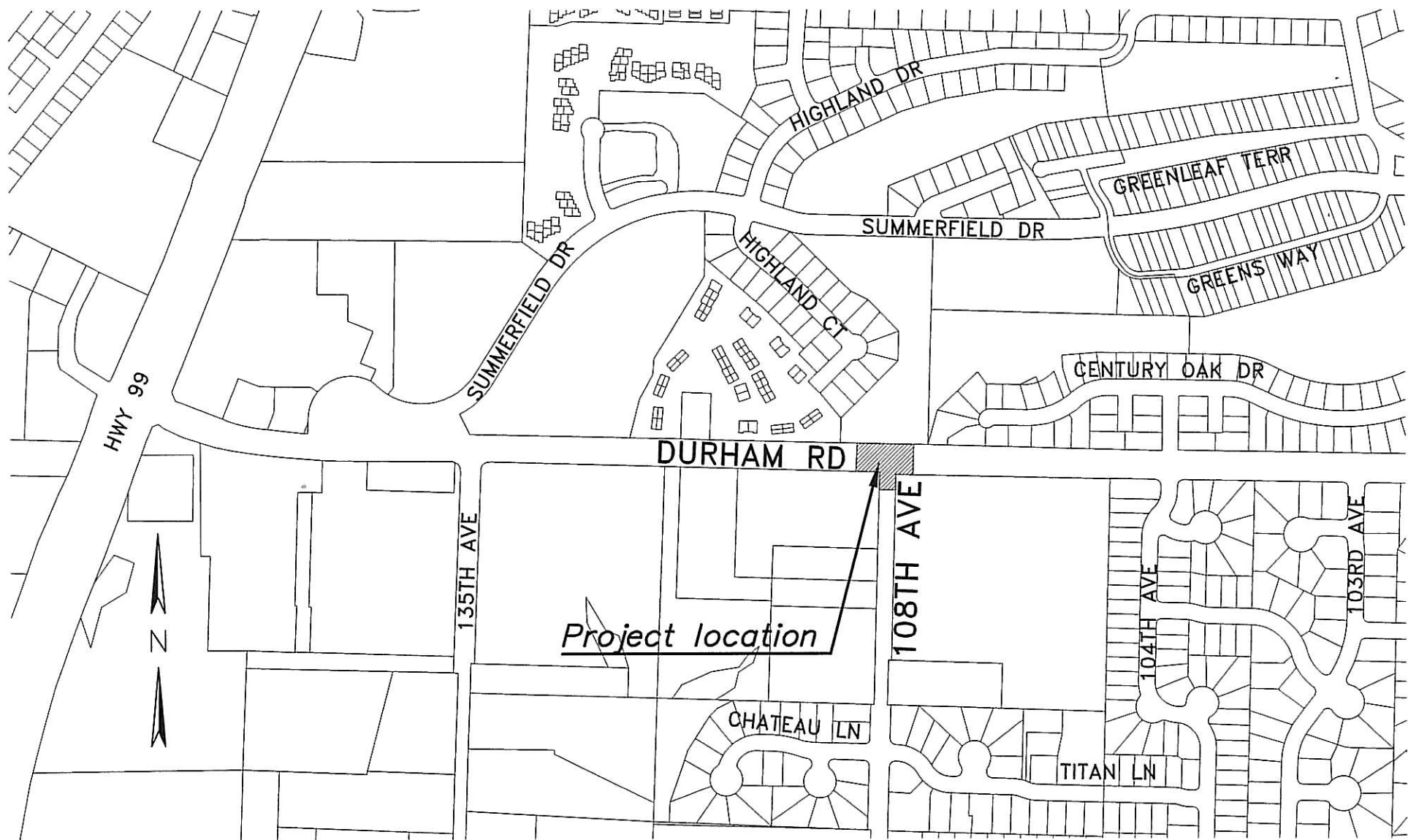
Project location map

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#### **FISCAL NOTES**

The amount of \$200,000 is available in the FY 2007-08 CIP under the Traffic Impact Fee Fund for this project. This amount is sufficient to award a construction contract of \$154,000.00 to NorthStar Electrical Contractors and to provide a contingency amount of \$15,000.00 for a total project commitment of \$169,000.00

# DURHAM ROAD & 108TH AVENUE TRAFFIC SIGNAL INSTALLATION



NO SCALE

Agenda Item #

Meeting Date

August 14, 2007

## COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Approve 2007 Justice Assistance Grant (JAG) Application

Prepared By: Chief Bill Dickinson

Dept Head Approval: WMD

City Mgr Approval: CL

### ISSUE BEFORE THE COUNCIL

Should the City Council approve a Bureau of Justice Assistance grant in the amount of \$19,269.

### STAFF RECOMMENDATION

Approve grant application

### KEY FACTS AND INFORMATION SUMMARY

A condition for a grant being awarded from the Bureau of Justice Assistance is that there be a review and approval of the application by the governing body of the jurisdiction. The funds received would be used in conjunction with the Police Department's efforts to implement a wireless hotspot and/or "mesh" system in the City. This would permit enhanced utilization of the mobile data computers that have been installed in the police vehicles. This technology is currently being used by the City of Beaverton and Washington County. The City now has an opportunity to build on the success of these two existing programs.

### OTHER ALTERNATIVES CONSIDERED

N/A.

### CITY COUNCIL GOALS

N/A

### ATTACHMENT LIST

Grant Application, Program Narrative, and Budget Narrative.

### FISCAL NOTES

Would receive a grant in the amount of \$19,269 that does not require any matching funds.





**BJA FY 07 Edward Byrne Memorial Justice Assistance  
Grant (JAG) Program 2007-F7240-OR-DJ**


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<b>APPLICATION FOR FEDERAL ASSISTANCE</b>		<b>2. DATE SUBMITTED</b>	<b>Applicant Identifier</b>
<b>1. TYPE OF SUBMISSION</b>  Application Non-Construction	<b>3. DATE RECEIVED BY STATE</b>		<b>State Application Identifier</b>
	<b>4. DATE RECEIVED BY FEDERAL AGENCY</b>		<b>Federal Identifier</b>
<b>5. APPLICANT INFORMATION</b>			
<b>Legal Name</b>  City of Tigard		<b>Organizational Unit</b>  Police Department	
<b>Address</b>  13125 SW Hall Blvd Tigard, Oregon 97223-8144		<b>Name and telephone number of the person to be contacted on matters involving this application</b>  Imdieke, Tom (503) 718-2554	
<b>6. EMPLOYER IDENTIFICATION NUMBER (EIN)</b>  93-0503940		<b>7. TYPE OF APPLICANT</b>  Municipal	
<b>8. TYPE OF APPLICATION</b>  New		<b>9. NAME OF FEDERAL AGENCY</b>  Bureau of Justice Assistance	
<b>10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE</b>  NUMBER: 16.738 CFDA EDWARD BYRNE MEMORIAL JUSTICE TITLE: ASSISTANCE GRANT PROGRAM		<b>11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT</b>  Use of Secure Mobile/Wireless Technology	
<b>12. AREAS AFFECTED BY PROJECT</b>  City of Tigard			
<b>13. PROPOSED PROJECT</b>  Start Date: September 15, 2007 End Date: September 15, 2009		<b>14. CONGRESSIONAL DISTRICTS OF</b>  a. Applicant b. Project OR01	
<b>15. ESTIMATED FUNDING</b>		<b>16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?</b>	
Federal	\$19,269	Program has not been	
Applicant	\$0		
State	\$0		

Local	\$0	selected by state for review
Other	\$0	
Program Income	\$0	<b>17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?</b>
TOTAL	\$19,269	N
<b>18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS REQUIRED.</b>		

Continue

## **Program Narrative**

**City of Tigard, Oregon  
Justice Assistance Grant (JAG) Program  
\$19,269  
Edward Byrne Memorial  
FY 2007 Local Solicitation**

### **Project Title: Use of Secure Mobile/Wireless Technology**

The City of Tigard will soon be conducting an assessment study to identify and outline what the needs, requirements, and costs would be to acquire and install a secure wireless hotspot and/or "mesh" system in the City. The assessment study would also determine specific locations where equipment would need to be placed throughout the City to maximize the use of this technology. The City over the past year or so has installed mobile data computers (MDCs) in all of the patrol cars. Now the objective is to maximize the use of the MDCs so that officers can prepare reports at remote locations rather than having to return to the office to complete reports. This will provide better utilization of an officer's time in the field. Officers will be able to prepare reports and submit them while remaining in the field. This technology is already being used by the City of Beaverton and Washington County. The City of Tigard now wants to take advantage of their experience and proven success and implement this at the City of Tigard.

## **Budget Narrative**

**City of Tigard, Oregon  
Justice Assistance Grant (JAG) Program  
Edward Byrne Memorial  
FY 2007 Local Solicitation**

<b>Item</b>	<b>Qty</b>	<b>Cost</b>	<b>Extended Cost</b>
<b>Materials &amp; Services</b>	<b>1</b>	<b>\$19,269</b>	<b>\$19,269</b>
<b>Contract to install appropriate equipment at selected sites.</b>		<b>Total</b>	<b>\$19,269</b>

Agenda Item #

Meeting Date

August 14, 2007

## **COUNCIL AGENDA ITEM SUMMARY**

City Of Tigard, Oregon

Issue/Agenda Title Memorandum of Understanding Related to Potential Property Transactions.

Prepared By: Tom Coffee

Dept Head Approval: TC

City Mgr Approval: cl

### **ISSUE BEFORE THE COUNCIL**

Authorize the Mayor to sign a resolution relating to a memorandum of understanding which authorizes the City Manager and Community Development Director to work with Fred Fields and the School District in exploring options for a mutually beneficial real estate transaction involving the Hall Boulevard bus storage site and the Fields Property.

### **STAFF RECOMMENDATION**

Approve the resolution.

### **KEY FACTS AND INFORMATION SUMMARY**

The City Council reviewed the proposed resolution and memorandum of understanding at its study session on July 24, 2007.

### **OTHER ALTERNATIVES CONSIDERED**

N/A.

### **CITY COUNCIL GOALS**

Schools and City government will effectively work together to achieve operational efficiencies and develop support options.

### **ATTACHMENT LIST**

Attachment 1: Resolution

Attachment 2: Memorandum of Understanding.

### **FISCAL NOTES**

The potential costs to the City are unknown at this time.

CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
RESOLUTION NO. 07-\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TIGARD AUTHORIZING THE CITY MANAGER AND COMMUNITY DEVELOPMENT DIRECTOR TO CONTINUE TO WORK WITH FRED W. FIELDS AND THE TIGARD-TUALATIN SCHOOL DISTRICT IN EXPLORING OPTIONS FOR A MUTUALLY BENEFICIAL REAL ESTATE TRANSACTION INVOLVING THE HALL BOULEVARD BUS STORAGE SITE AND THE FIELDS PROPERTY.

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WHEREAS, the City Council recognizes that the City could benefit from consolidation of public works facilities; and

WHEREAS, the City Council is aware that the Tigard-Tualatin School District is examining options to replace its bus storage site, located at 13000 S.W. Hall Boulevard, Tigard, because of inherent access issues and because the site is not large enough to accommodate all of the District's busses; and

WHEREAS, the City and the District have made efforts over the last several years to explore options for meeting their respective land needs; and

WHEREAS, Mr. Fields has expressed a desire to purchase from the District the Bus Storage Site to provide access to adjacent property within the Fields Property; and

WHEREAS, there may be some cost efficiencies in the City's public works facilities and a new District bus storage site being located near to each other within the Fields Property; and

WHEREAS, a non-binding Memorandum of Understanding ("MOU") has been prepared to establish the District's, the City's and Mr. Fields' understanding of the needs of each party and the process by which the parties will endeavor to proceed with a further exploration of the options available to meet the parties' needs through the use of the Fields Property and the Bus Storage Site, attached as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The City Council hereby authorizes the City Manager and Community Development Director to proceed with discussions and negotiations that may lead to a mutually acceptable real estate transaction involving the Bus Storage Site and the Fields Property.

SECTION 2: The City Manager and Community Development Director shall report to the City Council from time to time on progress made in those discussions and negotiations.

SECTION 3: The City Manager shall bring any tentative offers and purchase and sale agreements back to the City Council for its review and approval.

SECTION 4: The MOU is not a binding document against the City, and no part of any negotiations or discussions with respect to this matter shall be binding on the City unless agreed to by the City.

SECTION 5: This resolution is effective immediately upon passage.

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_ 2007.

---

Mayor - City of Tigard

ATTEST:

---

City Recorder - City of Tigard



**Exhibit A**

**MEMORANDUM OF UNDERSTANDING**

**PARTIES TO THE MEMORANDUM:**

Fred W. Fields  
1149 SW Davenport  
Portland, OR 97201

“Fields”

City of Tigard  
c/o Craig Prosser  
City Manager  
13125 SW Hall Blvd.  
Tigard, OR 97223

“City”

Tigard/Tualatin School District 23J  
Rob S. Saxton  
Superintendent  
Larry Hibbard Administrative Center  
6960 SW Sandburg Street  
Tigard, OR 97223

“School District”

The Parties to this Memorandum of Understanding each has real property needs within the City of Tigard. The purpose of the Memorandum of Understanding is to outline the Parties' needs and provide a process which enables the Parties to work towards a solution for all Parties to this memorandum to fulfill their needs. The definitions of the respective Parties' needs are as follows:

**NEEDS:**

1. Fields owns the following lots:
  - a. North of railroad tracks:
    - i. Tax Lot 1100, 13.21 acres
    - ii. Tax Lot 800, 24.32 acres; these two parcels are zoned industrial park (I-P) and serviced from Hunziker Road and accessed by a private road owned by Fields. This road is in the process of being improved to a 24 foot two-way, right of way.
    - iii. Tax Lot 300, 3.11 acres; fronting Hunziker Road; zoned commercial park (C-P)
    - iv. Tax Lot 004, south of Tax Lot 300, 2.0 acres; zoned residential (R-3.5).

Memorandum of Understanding

May 9, 2007

Page 2

- b. South of railroad tracks:
  - i. Tax Lot 1200, 26.32 acres; zoned light industrial. (I-L)

Fields believes the above properties may be developed to their highest and best use under a revised master plan to include substantially more residential. Fields also does not have access appropriate to the commercial development under the current zoning and/or any future zoning changes that may include more residential use. Fields desires to position the approximately 70 acres of land for development in a manner satisfactory to Fields and the City. To do so Fields seeks support from the City of Tigard within the same spirit documented in the sale of land by Fields to the City for its public library.

- 2. The School District currently owns Tax Lot 500, 8.41 acres south of the railroad tracks, of which more than 50% may not be useable due to wetland issues. The property has access from SW Hall Boulevard. School District currently needs additional property, approximately eight acres, for purposes of the maintenance and parking of the School District's buses. In addition there is some concerns with regard to traffic congestion created by the buses departing from their property onto Hall Boulevard. Any future location will require the construction of a maintenance facility to replace the existing facility.
- 3. City of Tigard has multiple locations for its Public Works facilities scattered throughout the city. The City desires and believes there are economic efficiencies to be gained by consolidating the public works maintenance facilities onto a single property. It is estimated the City may need up to ten acres with facilities to be constructed.
- 4. There is the possibility that the City and the District might achieve future savings by combining the maintenance facilities for the School District and the City of Tigard's Public Works.

**PROCESS:**

- 1. Fields, working with the Parties to this memorandum, will prepare a master plan for the entire property to and including appropriate zoning and comprehensive plan changes to include residential development which may be more appropriate, i.e. the portion of the property that abuts residential and has the greatest severity of contour change.
- 2. Fields seeks commercial access for the parcel south of the railroad tracks. Fields and the City previously executed an easement and an agreement of cooperation whereby the City would cooperate with Fields in resolving access issues. Without deferring any of these agreements, the Parties herein seek a more viable option to provide access. A possible solution to the access needs of Fields is the acquisition of the School District property. In addition, Fields will need

Memorandum of Understanding

May 9, 2007

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commercial access to the property north of the railroad tracks from Hunziker via a dedicated street currently privately held. This concept will be studied including the creation of a public right of way with dedications to the appropriate municipality. It may also be appropriate to study access from SW Varnes Street and SW Tech Center Drive for the property north of the railroad tracks.

3. School District will need a larger site (up to 8 acres) and more appropriate location for access purposes to mitigate it's current traffic congestions on SW Hall. Fields has property available that appears to be acceptable for relocating the School District's bus maintenance and parking needs.
4. City of Tigard's needs with regards to consolidation of their Public Works maintenance facilities can also be accommodated on Fields property.

**ACTIONS:**

Fields will prepare a master plan to submit to the City with the intention of moving towards the following:

1. Applications for approvals allowing Fields to proceed with the development of his parcels referenced above. These applications may include a master comprehensive plan and zoning change and access to Fields property, including all planning and approvals necessary for permitting of the to be agreed upon allowable uses.
2. City of Tigard Staff will investigate the amount of land and building required for the consolidation and relocation of its various Public Works facilities currently spread throughout the City of Tigard. A tentative timetable will also be developed. The concept is to sell land to the City of Tigard from within the Fields holdings to accommodate the City of Tigard's needs. Fields and City will agree as to the location of the property within Fields holdings north of the railroad tracks.
3. School District will appraise its property in order to evaluate the option of transferring the real estate to accommodate Fields' needs for access in exchange for a site within Fields holdings to provide the School District expansion, shop maintenance facility, and traffic mitigation needs. Any difference in land values will require cash consideration. The Parties hereto will study a site within Fields holdings north of the railroad tracks.
4. All Parties to this transaction will work in good faith with a sense of urgency to develop a plan which could produce an agreement in which the School District receives a site to house and maintain its busses; Fields receives commercial access and the appropriate master plan change and zoning to allow permitting for the uses mutually agreed by Fields and the City. The City may agree to consolidate its Public Works facilities on Fields property on a site and at a price to be

Memorandum of Understanding

May 9, 2007

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mutually agreed upon by Fields and the City. All values will be mutually agreed upon and with the appropriate support required by public agencies.

The foregoing is an outline of non-binding discussion points among the Parties. No Party will be bound in any manner by this memorandum of understanding unless an agreement among the Parties has been fully negotiated, executed, and delivered.

Agenda Item #  
Meeting Date

August 14, 2007

**COUNCIL AGENDA ITEM SUMMARY**  
City Of Tigard, Oregon

Issue/ Agenda Title Second Quarter Council Goal Update

Prepared By: Joanne Bengtson

Dept Head Approval: cl

City Mgr Approval: cl

**ISSUE BEFORE THE COUNCIL**

Progress report on the Council goals for the second quarter of 2007.

**STAFF RECOMMENDATION**

Review the update.

**KEY FACTS AND INFORMATION SUMMARY**

Attached are brief summaries of progress made on the goals adopted by Council in January 2007.

**OTHER ALTERNATIVES CONSIDERED**

N/A.

**CITY COUNCIL GOALS**

Goals are identified throughout the document.

**ATTACHMENT LIST**

- Second Quarter Goal Update Report

**FISCAL NOTES**

N/A.



## 2007 Goal Update Second Quarter



The City Council meets annually to set out its goals for the coming year. For 2007, we have focused tasks that should be done in 2007 to lay the foundation for progress in the future.

We would also like to acknowledge on-going tasks, programs, and projects that serve and protect Tigard citizens. These work items are in process and do not require specific Council action. Examples include obtaining a permanent and secure water source for the City, greenspace acquisition, fiscal viability, public safety, and library services.

### **1. Comprehensive Plan**

- a. Updating the blueprint for the City
- b. Public Input

### **2<sup>nd</sup> Quarter Goal Update:**

Progress continues on the Comprehensive Plan Update. Several citizen "Policy Interest Teams" have been formed. The Policy Teams are meeting with staff to develop the basis for new Comprehensive Plan goals, policies and action measures. In addition these groups are working with City Boards and Commissions on several policy topics.

Numerous meetings have been recently held with community groups such as the Kiwanis, Tigard High School Youth Advisory Council and government classes, CPO4-B, Tigard Senior Center, Lions Club, Scholls Village Home Owners Association, etc . Also, Long Range Planning staff solicited public input at the Balloon Festival and Tigard Farmers Market.

It is expected that several Plan chapters, including Parks and Recreation; Natural Hazards; Public Involvement, Environmental Quality, and Trees will be ready for Planning Commission public hearings by the end of summer/early fall 2007. City Council hearings would follow.

Public hearings on other plan chapters will follow. Expected completion of the Comprehensive Plan is spring/summer 2008.

### **1<sup>st</sup> Quarter Update:**

#### ***a. Updating the blueprint for the City***

- Completed and published *Tigard 2007: A Comprehensive Plan Resource Report*.
- Transitioned Tigard Beyond Tomorrow vision process to the Comprehensive Plan Update.
- Reviewed Comprehensive Plan goal and policy "concepts" for "Trees and Other Vegetation" with the Tigard Tree Board.
- Made Transportation Growth Management (TGM) Grant Application to update the City's Transportation System Plan (TSP).

#### ***b. Public Input***

- Scheduled and held joint CCAC and Planning Commission work sessions on Comprehensive Plan Goals, Policies and Action Measures for Tigard Downtown; Planning Commission subsequently held a public hearing and has recommended adoption to Council.
- Established Citizen Involvement Program, which includes the Committee for Citizen Involvement (CCI).

- "Kicked-off" policy phase of Comprehensive Plan Update, which involves developing goals, policies and action measures; public Open Houses to be held on April 18 and 21.

## **2. Continue to Support Implementation of the Downtown Plan**

- a. Pursue funding for projects
- b. Prepare for business/developer recruitment
- c. Promote Tigard identity
- d. Promote community fabric in the downtown
  - i. Business Development
  - ii. Public Square
  - iii. Farmers Market
  - iv. Arts & Culture

### **2<sup>nd</sup> Quarter Goal Update:**

#### **a. Pursue funding for projects**

Staff received notification from Metro in March that the City was awarded a grant in the amount \$2.5 million for redesign and construction of Main Street in Downtown. As a result, staff has pursued the earliest possible execution of the project. The timeline as established with Metro is FY07-08: Preliminary Design, FY08-09: Final Design, FY 09-10: ROW Acquisition, FY 10-11: Construction.

#### **b. Prepare for business/developer recruitment**

Staff has begun contacting developers to familiarize them with the status of the Downtown, upcoming improvements, and potential opportunities. As part of a second trip to Port Moody, Canada, scheduled for July 26-27, twelve (12) letters to developers were sent out to both invite them on the trip and provide them with background on our Downtown development efforts. A newsletter is being updated on-line, and will be provided with other relevant materials for distribution.

Business and key land owners in Downtown have committed to being part of the Fanno Creek Park and Downtown Plaza master planning effort. The Fanno Steering Committee has two key property owners participating. In order to better communicate this project to the public, graphics from the master plan are being placed in an on-line newsletter, and communications with the local news media is being improved so that the evolving design of Downtown such as Main Street, Park or Public Plaza is reported. It is expected that providing visual examples of the future of the Downtown will interest the public, and developers.

#### **c. Promote Tigard Identity**

Promoting a Tigard identity is linked to further developing specific projects. These include a master plan for Fanno Creek Park, the siting and design of a Downtown Public Plaza, and development of a pervasive open space system. The promotion and construction of "sustainable design" projects such as Burnham Street design and Main Street, and the formation of design guidelines will create the type and character of place envisioned.

Refining the marketing message about Downtown will be made in Cityscape, on-line, and in the news media.

#### **d. Promote Community Fabric in the Downtown**

- i. *Business Development:* The focus of staff's effort has been on implementing projects within the Downtown Plan and Urban Renewal Plan. Up to now, little effort has been devoted to promoting



new business in the Downtown, or establishing a more formal organization to address business development. However, staff has instituted regular monthly meetings in Downtown to establish better communications with Downtown businesses. It is anticipated that these meetings will provide the opportunity for local businesses to raise concerns. It is also expected that new liaison with the Chamber of Commerce and the upcoming reconstruction of Main Street will stimulate thinking about how to promote new businesses in Downtown.

ii. *Public Square:* Walker Macy, landscape architects, are working on the “Plaza Location Study”, which has identified several potential locations for a Public Plaza and adjoining development. On July 24, City Council will be apprised of the options and provide initial input and direction. The siting, programming and design of the Plaza will bring community-wide attention to this project over the next 6 to 9 months.

iii. *Farmer’s Market:* Currently the Farmer’s Market is located in the Washington Square area with some interest in locating a mid-week market in Downtown. No decisions have been made. The idea of a public market as a programmed use in the Downtown Plaza will be evaluated as part of the Fanno Creek Park Master Plan project. Representatives of the Farmer’s Market attended the second Fanno Steering Committee meeting, and will be present at others to participate in the discussion as to its future location.

iv. *Arts & Culture:* There has been some consideration within the Downtown Streetscape Plan of the placement of public art. This topic will be raised again during the discussion about the public plaza and its environment. The topic will also resurface when discussion about a future Performing Arts Center is raised. The siting of a future Performing Arts Center will be considered as part of the discussion about a Downtown Public Plaza which will occur in July and August. A final decision about a Performing Arts Center will likely not be made until further feasibility has been done.

#### 1<sup>st</sup> Quarter Update:

2a. Pursue funding for projects: Staff received notification from Metro in March that the City was awarded a grant in the amount \$2.5 million for redesign and construction of Main Street in Downtown. Approximately ½ of Main Street (railroad to the SW entrance) will be fully reconstructed with grant funds. Improvements will include the street and sidewalks, lighting, landscaping, a revised parking and sidewalk layout, and be constructed to sustainable design standards.

2b. Prepare for business/developer recruitment: Staff has started contacting developers to familiarize them with the status of the Downtown, upcoming improvements, and potential opportunities. A newsletter is being updated on-line, and will be provided with other relevant materials for distribution.

Business and key land owners in Downtown have committed to being part of the Fanno Creek Park and Downtown Plaza master planning effort. Being closely connected to this process will inform them of potential opportunities for public / private partnerships.

The CCAC is looking at ways in which the City can market its message more effectively. One of the key elements is to provide relevant information to the news media for local coverage. An effort will be made to place graphics and stories about the evolving design of Downtown such as Main Street, Park or Public Plaza in the newspapers.

2c. Promote Tigard identity: Most of staff’s effort to create an “identity” in Downtown has been linked to projects as identified in the Downtown Plan and Urban Renewal Plan. These include the creation of a pervasive open space system in Downtown including Fanno Creek Park and Plaza, the promotion and



construction of “sustainable design” projects such as Burnham Street design and Main Street, and the formation of design guidelines which will create the type and character of place envisioned. Refining the marketing message about Downtown will be made in Cityscape, on-line, and in the news media.

2di. Business Development: Because attention has been focused on project implementation, there has been little effort to promote new business in the Downtown. Staff is instituting regular monthly meetings in Downtown to establish better communications with Downtown businesses. It is anticipated that these meetings will provide an opportunity for local businesses to raise concerns. It is also expected that new liaison with the Chamber of Commerce and the upcoming reconstruction of Main Street will stimulate thinking about how to promote new businesses in Downtown.

2dii. Public Square: Walker Macy, landscape architects, was awarded the contract to provide a master plan for Fanno Creek Park and Plaza in Downtown. The siting, programming and design of the Plaza will bring community-wide attention to this project over the next 6 to 9 months.

2diii. Farmer’s Market: Currently the Farmer’s Market is located in the Washington Square area with some interest in locating a mid-week market in Downtown. No decisions have been made. The idea of a public market as a programmed use in the Downtown Plaza will be evaluated as part of the Fanno Creek Park Master Plan project.

2div. Arts & Culture: There has been some consideration within the Downtown Streetscape Plan of the placement of public art. This topic will be raised again during the discussion about the public plaza and its environment. The topic will also resurface when discussion about a future Performing Arts Center is raised. The siting of a future Performing Arts Center will be considered as the development plan for Downtown evolves and becomes more specific. This is likely to occur over the next 1 to 2 years.

### **3. Aggressively pursue funding to correct traffic congestion within the City**

- a. Seek funding for 99W improvements
- b. Support the I-5 Connector
- c. Support Hwy 217 funding

#### **2<sup>nd</sup> Quarter Goal Update:**

##### **a. Seek Funding for 99W Improvements:**

There are three significant projects that have been funded for improvements to Highway 99W. The projects are:

- The TGM (Transportation and Growth Management) grant to prepare a Highway 99W corridor improvement and management plan.
- The Greenburg Road/Highway 99W/Main Street intersection project funded through the 3-cent local fuel tax.
- The Hall Boulevard/Highway 99W intersection improvements funded through Washington County’s MSTIP program.

##### **Highway 99W Corridor Improvement and Management Plan**

The Highway 99W Corridor Improvement and Management Plan project is nearing completion. Three concept plans aimed at improving traffic circulation, pedestrian safety, and enhancing transit use were developed and evaluated. The three concepts are:

- Partial widening (I-5 interchange to Greenburg Road) with access management
- Aggressive access management throughout the entire corridor
- Widening to 7 lanes throughout the entire corridor

The second of three open houses was conducted April 19, 2007 to obtain public input on the three concepts.

Following the open house, the concepts were evaluated based on the effects on the modes of transportation, costs, impact to right-of-way, safety, and other considerations. A third and final open house was conducted on June 7, 2007 to receive public comment on the evaluation results and on the preferred concept based on the evaluation. City Council was briefed on the study results June 19, 2007.

The next step, which should be completed in the first week of July 2007, is to refine the preferred concept, prepare an implementation strategy, and develop a comprehensive list of projects for future implementation. Presentations to the Planning Commission, the Chamber of Commerce, the CCAC and possibly others are proposed before the plan is submitted to Council for acceptance or adoption. That presentation to Council is expected to occur in August or September 2007.

#### Greenburg Road/Highway 99W/Main Street Intersection Improvements

Gas tax collection began April 1, 2007. A prospective petition filed by the Oregon Petroleum Association for an initiative to repeal the ordinance failed to collect sufficient signatures to refer the proposed measure to the ballot. The City will work with Washington County to ensure design and construction of the project in conjunction with the County's Hall/99W intersection project. The amount of \$500,000 has been budgeted in FY 2007-08 for project design and partial right-of-way acquisition.

#### Hall Boulevard/Highway 99W Intersection Project

Washington County is in the initial stages of right-of-way acquisition for the project. The City has reviewed and commented on the draft Intergovernmental Agreement (IGA) with ODOT and Washington County for the project. That IGA will be submitted for Council approval after the parties agree on a final version.

The City has discussed incorporation of gateway treatments at the corners of the intersection with County staff and the design consultant. Those concepts will be included with the submittal of project plans to ODOT for review. Funding is included in the FY 2007-08 Community Investment Program to cover costs anticipated for the gateway treatments during the fiscal year. The project is still scheduled for construction in mid-2008, assuming necessary rights-of-way can be acquired in a timely manner.

#### b. Support the I-5 Connector:

Regional and local transportation plans have recognized the need for a major connection between I-5 and Highway 99W for more than a decade. The increase in freight movement and traffic with destinations along the Highway 99W and I-5 corridors have resulted in heavy traffic congestion in the street systems along both major routes. Washington County, Metro and the Oregon Department of Transportation (ODOT) are jointly leading the I-5 to 99W Connector Project to address this regional problem. The Oregon Transportation Commission has recently designated this as a project of statewide significance.

A thorough and detailed study with rigorous analysis and ample opportunities for public involvement and jurisdictional coordination is underway to establish the alignment for this connector.

*Current Status:* Project representatives briefed Council on the project status at the Council meeting on June 26, 2007. The project is in Phase 1 of two phases. Phase 1 includes establishment of the preferred

corridor for the project and submittal of the selected corridor for incorporation into Metro's Regional Transportation Plan. Phase 2 will identify and refine the project design through the EIS process, including obtaining a record of decision and federal authority to proceed toward construction.

The project staff will be back on August 21, 2007 to discuss in greater detail the range of corridor alternatives developed for the project. The public hearing on the corridor alternative selected is scheduled for early 2008.

c. Support Hwy 217 Funding

After two years of study and review, the Highway 217 Policy Advisory Committee (PAC) selected two improvement options to move forward for an environmental impact study. Option A - a new general-purpose (free, unrestricted) lane in each direction on Highway 217 and Option B - a new express toll lane in each direction on Highway 217 in addition to existing general-purpose lanes.

An amount of \$373,000 in federal funding was approved through Metro's MTIP process for project development on this project. The total funding available for the initial phase of the project is \$851,500, which consists of \$373,000 in federal funds, \$42,692 minimum local match, and \$435,808 in other funds provided by Washington County. The planning phase is currently programmed for federal fiscal year 2011, which begins October 2010.

1<sup>st</sup> Quarter Update:

3a: Seek funding for 99W improvements:

Highway 99W carries over 50,000 vehicles per day, half of which is regional through traffic. This highway is currently overwhelmed by the existing traffic volumes. There are no significant parallel routes to this highway, and the traffic congestion will continue to worsen as traffic increases during the next few years. The intersections of Highway 99W with Hall Boulevard and Greenburg Road are bottlenecks that seriously hamper the smooth flow of traffic. At peak travel hours, cut-through traffic uses the City of Tigard's collector and arterial system to avoid the Highway 99W traffic congestion. This traffic adversely impacts the arterial and collector street system in the City.

There are three significant projects that have been funded for improvements to Highway 99W. The projects are:

- The TGM (Transportation and Growth Management) grant to prepare a Highway 99W corridor improvement and management plan
- The Greenburg Road/Highway 99W/Main Street intersection project funded through the 3-cent local fuel tax
- The Hall Boulevard/Highway 99W intersection improvements funded through Washington County's MSTIP program

*Highway 99W Corridor Improvement and Management Plan*

The plan will identify projects and potential land use changes both aimed at alleviating traffic congestion and improving traffic circulation within the highway corridor through Tigard. Projects identified in the final plan will be prioritized for implementation through the City's Community Investment Program. Those projects that require joint effort from the City, county and state will be identified and partnerships will be sought for funding and implementation.

The preparation of the plan began in mid-August 2006 and will be completed by the end of June 2007. The plan development process includes six tasks:

Task 1: Project Management, Interagency Coordination and Public Involvement (ongoing for duration of the project – estimated as 11 months)



- Task 2: Existing Conditions, Plans and Policies (complete 2 months after Notice to Proceed)
- Task 3: Identify Needs, Opportunities and Constraints (complete 5 months after Notice to Proceed)
- Task 4: Alternatives Development (complete 7 months after Notice to Proceed)
- Task 5: Alternatives Evaluation (complete 9 months after Notice to Proceed)
- Task 6: Refinement/Implementation (complete 11 months after Notice to Proceed)

The project has progressed through the existing conditions and needs, opportunities and constraints tasks. An open house meeting to present the findings for public comment was conducted on February 7, 2007. The development of alternatives is underway and will be reviewed by the Technical Advisory (TAC) and Citizen Advisory (CAC) Committees during the first two weeks in April. A second open house meeting to present the alternatives for public input and comment is scheduled for April 19, 2007 in Town Hall. The evaluation of alternatives will follow with review by the TAC and CAC and a third and final open house meeting on June 7, 2007, also in Town Hall. The plan is expected to be completed by the end of June 2007, and will be presented to Council for acceptance or adoption sometime during the summer months.

#### *Greenburg Road/Highway 99W/Main Street Intersection Improvements*

The current level of service on Greenburg Road at Highway 99W is extremely poor, especially in the afternoon peak travel hours with vehicles waiting through multiple traffic cycles to clear the intersection. In addition, forecasts for Highway 99W along this area show it is well over capacity in future demand.

A 3-cent local fuel tax was established by City Council on December 19, 2006. The revenue from this tax is dedicated solely to improvements at the Greenburg Road/Highway 99W/Main Street intersection to complement Washington County's MSTIP 3 (Major Streets Transportation Improvement Program) project to construct improvements at the Hall Boulevard/Highway 99W intersection. The improvements to the Hall/99W intersection will not be fully effective in improving circulation and relieving traffic congestion as long as the bottleneck at the Greenburg Road intersection remains. A corresponding improvement to the Greenburg Road intersection is needed to improve traffic circulation across and along Highway 99W north of the viaduct to the Highway 217 interchange. The local gas tax will provide the revenue to design the project and construct it together with the County project at Hall and 99W. The tax has a 5-year sunset clause, and will be reduced if the state and county increase their gas taxes during the 5-year period.

An Intergovernmental Agreement has been executed with Oregon Department of Transportation Fuel Tax Group for collection of the local tax. The tax takes effect April 1, 2007 and will continue until December 31, 2011. A prospective petition has been filed by the Oregon Petroleum Association for an initiative to repeal the ordinance. If they obtain sufficient signatures, the local fuel tax will be placed before the voters at a future election. In the meantime, the City will move ahead with the design of the project for construction in conjunction with the Hall/99W intersection project.

#### *Hall Boulevard/Highway 99W Intersection Project*

This project adds capacity to the Hall Boulevard/Highway 99W intersection. It is funded through Washington County's MSTIP 3 (Major Streets Transportation Improvement Program) with contribution of up to \$750,000 from ODOT.

The project is on track for construction to begin in the spring of 2008. The project design is underway and the right-of-way necessary for the widening is being identified for acquisition to begin in the next few months. A draft intergovernmental agreement has been prepared for review with County, City and ODOT obligations clearly identified. The City is interested in constructing gateway treatments at the corners of the intersection. The intent at this point is to integrate the gateway treatments into the design and construction of the project. Funding is proposed in the FY 2007-08 Community Investment Program for these gateway treatments.

### **3b. Support the I-5 Connector**

Regional and local transportation plans have recognized the need for a major connection between I-5 and

Highway 99W for more than a decade. The increase in freight movement and traffic with destinations along the Highway 99W and I-5 corridors have resulted in heavy traffic congestion in the street systems along both major routes. Washington County, Metro and the Oregon Department of Transportation (ODOT) are jointly leading the I-5 to 99W Connector Project to address this regional problem. The Oregon Transportation Commission has recently designated this as a project of statewide significance. A thorough and detailed study with rigorous analysis and ample opportunities for public involvement and jurisdictional coordination is underway to establish the alignment for this connector.

Two community forums have been conducted since the project began in 2005. A range of corridor alternatives are now being developed and will be presented for public comment in a community forum scheduled for summer 2007. The next steps include evaluation of alternatives, a public hearing in winter 2007 to obtain formal public testimony, followed by selection of a preferred corridor for Regional Transportation Plan adoption and local plan amendments.

The importance of the connector to Tigard is dependent upon the location of the connection point with Highway 99W. The further south along Highway 99W, the less important it is as a means of reducing traffic congestion on Highway 99W. Although Tigard is not actively involved in the project, the City remains an interested party and is kept informed of its progress.

### **3c. Support Hwy 217 Funding**

After two years of study and review, the Highway 217 Policy Advisory Committee (PAC) recommended improvement options to move forward for further study. All of the options studied included improvements to interchanges, arterials, transit, and bike and pedestrian routes in the corridor. The options considered were:

- Option A - a new general-purpose (free, unrestricted) lane in each direction on Highway 217
- Option B - a new express toll lane in each direction on Highway 217 in addition to existing general-purpose lanes
- Option C - a new lane in each direction on Highway 217 and a new tolled ramp meter bypass lane on highway entrances

The Highway 217 PAC selected Options A and B in their final recommendation to move forward to an environmental impact study.

A request for funding from Washington County to perform preliminary environmental studies for the Highway 217 widening project was submitted for consideration in the Metro Priorities 2008-11 project selection process. The request was approved by the Washington County Coordinating Committee, which consists of elected officials from the County and its cities. Mayor Dirksen is the primary City representative with Councilor Harding as the alternate. The initial request of \$500,000 was eventually reduced to \$373,000 in the final JPACT recommended list. The overall project cost is estimated to range from \$350 to \$550 million, depending upon the alternatives selected.

## **4. Improve Council/Citizen communications**

- a. Complete the City Active Neighborhood (CAN) Program
- b. Citizen comment card at City Hall/Council meetings
- c. Boards & Commissions
  - i. Develop a regular training program for new members
  - ii. Develop a tracking system for Board & Commission recommendations
  - iii. Appoint Council liaisons to each Board and Commission – Periodically sit in on meetings
  - iv. Recognize & develop Boards & Commissions as sources for future Council candidates
  - v. Staff
    1. Periodically attend staff meetings

## **2<sup>nd</sup> Quarter Goal Update:**

### **4a. Complete the City Active Neighborhood (CAN) Program**

The pilot neighborhood web pages were rolled out in April. Board and Committee members (including Committee for Citizen Involvement), Community Connectors and pilot area resident volunteers received an email inviting them to “test drive” the sites. Feedback noted sites were easy to navigate. Staff is developing training for volunteers to learn how to post content and administer the sites. Over the summer staff will increase outreach to community and neighborhood events to enlist more volunteers (especially youth) to manage the sites.

Staff is also working with the Committee for Citizen Involvement (CCI) to refine the CAN Steering Committee Concept

### **4b. Citizen Comment Card at City Hall/Council meetings **GOAL COMPLETED****

Comment cards are placed in the City Hall and Permit Center lobbies. Staff will also make the cards available at City Council meetings.

### **4c. Boards & Commissions**

Since Councilor Harding resigned to move out of state, Council should review the liaison appointments and revise as necessary.

### **4c.v. Staff**

Council members attended the annual Employee Recognition event. Council President Sherwood served as the Emcee.

## **1<sup>st</sup> Quarter Update:**

### **4a. Complete the City Active Neighborhood (CAN) Program**

Staff continues to work on development of the Enhanced Neighborhood Program, involving residents of the pilot areas who have expressed an interest in participating as well as the Committee for Citizen Involvement (CCI). The purpose of the Enhanced Neighborhood Program is to involve citizens as partners in addressing their neighborhood issues as early as possible, and to facilitate neighborhood-level input on broader community issues.

Communication resources are being developed to assist citizens in gaining information and education through individual neighborhood web pages, cityscape and training opportunities. A presentation on Neighborhood Program Webpage Design was given to the Committee for Citizen Involvement on February 21, 2007 to collect comments on content of each webpage. Another visit to this committee took place on March 21, 2007 to report progress and solicit advice on developing neighborhood steering committees. Members of the CCI recommended steering committees govern each neighborhood, engaging residents who already volunteer in some capacity for the City – i.e. Neighborhood Watch members, Community Connectors, or CERT trained volunteers.

Staff will attend two PSO meetings (Templeton and Metzger) to discuss the Neighborhood Program as well as Comprehensive Plan Open Houses on April 18 and 21 to provide information about the program. The pilot neighborhood webpage is set for roll-out in April.

CRIME Spotter, a map-based tool for general information about criminal activity within the City was launched successfully to the public on April 1, 2007.

**4b. Citizen comment card at City Hall/Council meetings GOAL COMPLETED**

At the October 17, 2006 work session, staff reported on development of a Citizens Comment Card suggested by Councilor Harding at the September 26, 2006 Council meeting. Staff took Council feedback from that meeting and integrated comments into a format approved by Council members. A copy of the comment card is attached and is currently at the printer. It will be available for distribution as soon as mid-April.

**4c. Boards & Commissions**

Council met on January 23, 2007 to discuss liaison appointments to each Board and Commission. Resolution No. 07-05 was passed which assigned each member of Council to a Board or Committee. Council will periodically sit in on meetings, but not have a voting role.

**4c.v. Staff**

Council members attended the March 14 and March 16 All Employee meetings as part of their efforts to get involved with staff.

**5. Increase Tigard's involvement with Washington County, Metro, State, ODOT, Tri-Met, and Federal government**

**2nd Quarter Goal Update:**

Long Range Planning staff worked with the Capital Improvements Division to prepare and coordinate the City's submittal of major transportation projects for Metro's use in development of the Region 2035 Transportation Plan. These are projects the City had identified within its 2001 Transportation System Plan. This project involved substantial coordination and negotiation with other south Metro area governments including Washington County.

- State Senator Ginny Burdick and State Representative Larry Galizio provided briefings to Council in April and May. The Legislative Session adjourned in June and a final briefing will be given to Council July 24.
- ODOT Region 1 Manager Jason Tell provided a quarterly update to Council in June.
- City Managers within the County met monthly with County representatives.
- City Manager & Asst. City Manager met with Dennis Mulvihill, County Lobbyist in April, May and June.

**1st Quarter Update:**

The following has occurred:

- Monthly meetings between City Manager staff and Dennis Mulvihill, County Lobbyist.
- January and February briefings to Council by State Senator Ginny Burdick and State Representative Larry Galizio.
- City Manager & Asst. City Manager met with State Senator Ginny Burdick and State Representative Larry Galizio in January, February and March to discuss city priorities.
- Quarterly update provided to Council by ODOT Region 1 Representative in March.
- City Managers in the County meeting on a monthly basis with County representatives.
- Contract with Tri-Met for Officers to staff Transit Police Unit
- Metro: Councilor Carl Hosticka attended the City Council meeting in February to update Council on Metro proceedings.



Agenda Item #

Meeting Date

August 14, 2007

## COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Approve an Ordinance Amending Tigard Municipal Code (TMC 5.04 – Business Taxes) Making Changes to the Current Business Tax Structure

Prepared By: Chief Bill Dickinson Dept Head Approval: *lump* City Mgr Approval: *cl*

### ISSUE BEFORE THE COUNCIL

Should the City Council approve an ordinance amending Tigard Municipal Code 5.04 incorporating changes that have been proposed to the City's Business Tax Code and dedicate that additional revenue to the funding of a Commercial Crime Unit in the Police Department?

### STAFF RECOMMENDATION

Staff recommends that the City Council approve Version 2 of the Business License Code.

### KEY FACTS AND INFORMATION SUMMARY

At the Council workshop on June 19, 2007, staff reported back on the results of various business group meetings where the proposal to increase the business tax as well as transitioning to a business license program was discussed. Upon hearing that various business groups supported the proposal of the Tigard Police Department creating a Commercial Crime Unit and that it would be funded by an increase in the business tax (license) fees, the Council gave staff direction to proceed with preparing the necessary code amendments to implement the program. In addition, the Council also gave staff feedback as to which rate structure was preferred that would provide the necessary revenue to fund the annual operating budget of the new Police Department unit.

The Council also discussed the option of including certain conditions in the new code that would give the City Manager the authority to suspend or revoke a business license in order to protect the public interest. The conditions include those instances where the business license was procured by fraud or misrepresentation of fact; a licensee failed to comply with other City ordinances; the licensee has been convicted of a crime that has a direct relationship to the conduct of the business; a public nuisance exists; unlawful activity is permitted on the business premises; and other related conditions.

Attached to this summary, are two versions of an ordinance and code amendments that give the Council an option as to which business license program should be followed by the City. By approving Version 1, the business tax would be changed to a business license program along with implementing the other recommended administrative and collection procedures. Version 2 includes the same changes as outlined in Version 1 but includes those conditions where suspension or revocation of a business license could occur.

A resolution to change the fees associated with a business license program and a budget amendment to establish the spending authority for the new Police Department unit are also included on the same Council Business Agenda as this ordinance.



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## **OTHER ALTERNATIVES CONSIDERED**

Not pursue the funding of a Commercial Crime Unit in the Police Department by increasing the business license fees.

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## **CITY COUNCIL GOALS**

This would be part of the work items referred to in the 2007 City Council goals that would foster and create enhanced public safety.

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## **ATTACHMENT LIST**

Two versions of an ordinance modifying TMC 5.04 and a copy of both versions of the revised municipal code as amended. Version 1 changes the business tax to a business license and incorporates the other recommend administrative and collection procedures. Version 2 includes the changes as outlined in Version 1 and also includes conditions where a business license can be revoked or suspended.

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## **FISCAL NOTES**

This action amends TMC 5.04 and a related resolution amends the City's Fees and Charges Schedule. The new fee structure would generate over \$350,000 per year for the funding of the new Police Department unit.

CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
ORDINANCE NO. 07-\_\_\_\_\_

Version 1

AN ORDINANCE AMENDING TIGARD MUNICIPAL CODE, TMC 5.04, MAKING  
CHANGES TO THE BUSINESS TAX STRUCTURE

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WHEREAS, TMC 5.04 established a City of Tigard business tax; and

WHEREAS, the code and fees have not been revised or changed since 1988; and

WHEREAS, a proposal to change the business tax to a business license and increase the fees has been presented to various representatives of the business community and received an overall favorable response; and

WHEREAS, other changes need to be made to the existing code to implement other recommended revisions that include changes to administrative and collection procedures; and

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Chapter 5.04 of the Tigard Municipal Code is amended as shown in Attachment A (Version 1) to this ordinance. (Strike-through text is deleted; underlined text is added).

SECTION 2: This ordinance shall be effective January 1, 2008 after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By \_\_\_\_\_ vote of all Council members present after being read by number and title only, this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Craig Dirksen, Mayor

Approved as to form:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date





**Attachment A**  
**(Version 1)**

**TIGARD MUNICIPAL CODE**

1. "Business" means all kinds of vocations, occupations, professions, enterprises, establishments, and all kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit, or benefit, either directly or indirectly, on any premises in the City, including home occupations.

2. A person "engages in business" within the meaning of this chapter when soliciting orders for future delivery, selling or offering for sale, trade or barter any goods, merchandise or service, performing any service for profit, delivering any goods or merchandise within the City, personally advertising by individual contract with residents of the City any goods, merchandise or service to be sold or performed within or without the City. Such activity shall also include engaging in an enterprise, establishment, store, shop, activity, profession or undertaking of any nature conducted, either directly or indirectly, for private profit or benefit.

3. "The City" means the City of Tigard, Oregon.

4. "City Council" means the City Council of the City of Tigard, Oregon.

5. "Full-time equivalent employee" means the total number of hours worked by all employees working within the City of Tigard divided by two thousand eighty hours, which equals the number of full-time equivalent employees working within the City of Tigard.

6. "Person" means and includes but is not limited to individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts or corporations; or any officers, agents, employees, factors of any kind or personal representatives thereof, in any capacity, either on

that person's own behalf, or for any other person, under either personal appointment or pursuant to law.

7. "Permanent business" means professions, trades, occupations, shops and all and every kind of calling carried on for profit, personal gain, trade or barter and livelihood at a fixed or permanently established place of business maintained within the City.

8. "Premises" means and includes all lands, structures, places and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is affixed to or is otherwise used in connection with any such business conducted on such premises.

9. "Temporary business" means any business that meets the criteria outlined in Chapter 18.385.050 of the Community Development Code and has a valid temporary use permit. (Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.040 Prohibited Business Operation.**

It shall be unlawful for any persons, either directly or indirectly, to engage in any business without having first obtained a business license and where applicable, a Home Occupation Permit and paying the business license fee as prescribed by this chapter. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.050 One Act Constitutes Doing Business.**

For the purpose of this chapter, any persons shall be deemed to be engaging in business or engaging in nonprofit enterprise, and thus subject to the requirements of Section 5.04.040, when undertaking one of the following acts:

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Deleted: 6. "Itinerant business" means all persons, firms or corporations, including merchants, solicitors, peddlers, hawkers and agents, engaging in the business in the City to sell or solicit for sale products or services, when such persons, firms or corporations do not maintain a permanent place of business within the City or who are not engaging in "temporary business" as defined below.¶

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**Attachment A**  
**(Version 1)**

**TIGARD MUNICIPAL CODE**

1. Selling any goods or service;
2. Soliciting business or offering goods or services for sale, hire, trade or barter;
3. Acquiring or using any vehicle or any premises, for business purposes in the City. (Ord. 88-13 §1(Exhibit A)(part), 1988)

**5.04.060 Agents Responsible For Obtaining A Business License.**

The agents, representatives or other responsible parties doing business in the City shall be personally responsible for the compliance of their principals and of the businesses they represent with the provisions of this chapter. (Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.070 Separate License For Branch Establishments And Multiple Locations.**

If any person engages in business in more than one location in the City, a business license fee shall be paid in the manner prescribed in this chapter for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business; provided, that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments. Separately franchised operations shall be deemed separate businesses even if operated under the same name. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.080 Rental Real Property.**

Each rental real property shall be deemed a

branch establishment or separate place of business for the purposes of this chapter when there is a representative of the owner or the owner's agents on the premises who is authorized to transact business for each owner or owner's agent, or there is a regular employee of the owner or of the owner's agent working on the premises. (Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.090 Multiple Businesses At Same Location.**

A person engaged in two or more businesses at the same location shall not be required to pay separate business license fees for conducting each such business; but, when eligible, shall be issued one business license which shall specify on its face all such businesses. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.100 No Business License Required.**

Notwithstanding the requirements of this chapter, the following shall not be required to apply for and obtain a business license:

1. No business license shall be required for any person for any mere delivery in the City of any property purchased or acquired in good faith from such person at the regular place of business outside the City.
2. Minors engaged in babysitting, delivery of newspapers, mowing lawns, washing cars, and similar activities.
3. City Sponsored events.
4. Casual or isolated sales (i.e. garage or moving sales) made by persons who are not engaged in the business of selling the type of property involved, provided that no more than four such sales are made annually and last no

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## Attachment A (Version 1)

### TIGARD MUNICIPAL CODE

longer than three days at a time. (Ord. 07-X, Ord. 88-13 §1 (Exhibit A)(part), 1988).

#### 5.04.110 Business License Required But Exempt From Business License Fee.

A non-profit business is required to obtain a business license, but shall be exempt from the business license fee. The City shall issue a business license, without requiring the payment of any business license fee therefor to any persons or organization for the conduct or operation of a nonprofit enterprise, either regular or temporary, when the City finds that the applicant operates without private profit, for a public, charitable, educational, literary, fraternal or religious purpose. A person or organization operating under nonprofit exemption shall operate the nonprofit enterprise in compliance with the provisions of this chapter and all other applicable rules and regulations. (Ord. 07-X, Ord. 88-13 §1(Exhibit A) (part), 1988).

#### Issuance Of Business License.

1. The City shall collect all business license fees and shall issue business licenses under the provisions of this chapter. The City shall promulgate and enforce rules and regulations necessary for the operation and enforcement of this chapter. Such rules shall be available to the public upon request.

2. Businesses which constitute a home occupation as defined in Chapter 18.385.020 of the Tigard community development code shall have a valid home occupation permit prior to the issuance of a business license. All other business licenses shall be issued upon written application and receipt of the applicable fee by the City.

3. A duplicate business license shall be issued by the City to replace any business license

previously issued which has been lost, stolen, defaced, or destroyed, without any willful conduct on the part of the licensee upon the filing by the licensee of a statement attesting to such a fact and paying the City a fee as provided in the City's fee schedule. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

#### 5.04.130 Procedure For Obtaining A Business License.

1. All business licenses shall be issued upon written application and receipt of the applicable fee by the City.

2. The business license application shall be completely filled out before a business license is issued.

3. An applicant seeking an exemption under section 5.04.110 shall submit an application therefor to the City upon the prescribed forms, and shall furnish such additional information and make such affidavits as the City shall require. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

#### 5.04.140 Display.

Upon payment of the business license fee a person shall be issued a business license by the City, which shall be kept posted in a conspicuous place on the business premises at all times. If there is no physical structure on which to display the business license, the business license shall be in the possession of the representative of the business present within the City at all times during which business is being transacted. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

#### 5.04.150 Reissue Of Business License.

A business license may be reissued if

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**Attachment A**  
**(Version 1)**

**TIGARD MUNICIPAL CODE**

incorrect information is recorded on the license as provided below:

1. If the reissue is the result of incorrect information due to an error by the City or a City employee, there will be no fee.

2. If the reissue is the result of incorrect information due to an error by the applicant or an agent of the applicant, a reissue fee in the same amount as the initial issue fee will be required.

3. If a business licensee relocates during the calendar year. City files will be updated but a new business license will not be issued until the next renewal business license is issued. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.155 Change In Business Ownership.**

If a person transfers or assigns a business for which a license has been paid, the license is transferable to the new owner after the receipt of a change of ownership fee. The change of ownership fee shall be established by resolution as provided for under section 5.04.160. The new owner shall inform the City of the change in ownership by paying the change in ownership fee and filing a new license application, but shall not have to pay an additional business license fee for that business license year. The new owner will retain the old license number for the remainder of the business license year. A change in the name of the business or change in the location of the business shall require a new business license application and an additional business license fee.

**5.04.160 Fee Schedule.**

1. All fees shall be set by resolution of the City Council.

2. The business license year shall be from January 1<sup>st</sup> to December 31<sup>st</sup>.

3. A business license will be valid from the date of issue through December 31<sup>st</sup> of that year.

4. The business license fee shall be paid annually in advance of the business license year. For businesses starting after January 1<sup>st</sup> of any year, the business license fee shall be paid within one month of commencing business. Businesses shall be liable for the license fee from the date they commence doing business within the City and not from the date that the license fee is paid or business license application is submitted.

5. The initial business license fee for an annual business license can be made at any time. There after the annual business license fee shall be due in full every January 1<sup>st</sup>. If a person engages in business at any time on or after July 1<sup>st</sup> of a business license year, the fee for such business license shall be equal to one-half the business license fee set forth in subsection 1 above. Irrespective of when during the period from January 1<sup>st</sup> to December 31<sup>st</sup> of such license year such person engaged in business, and each applicant must pay the full or partial fee for the current license year or any portion thereof during which the applicant has engaged in business.

6. There will be no business license fee refunds for businesses that cease operation or move out of the City during the business license year. (Ord. 07-X, Ord. 02-05, Ord. 88-13 §1(Exhibit A)(part), 1988).

**05.04.165 Renewal.**

Application for renewal of all business licenses shall be made on or before December 31<sup>st</sup> of the year following the year of issuance, and each succeeding year, if the business is to be

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## Attachment A

### (Version 1)

## TIGARD MUNICIPAL CODE

continued. Application for renewal shall be made on forms prescribed by the City manager or designee. A business which has an existing business license, and which has applied for renewal of such license on or before December 31<sup>st</sup> of the license year, may remain in business under its existing license until such time as the renewal license is either approved or denied. (Ord. 07-X).

#### 5.04.170 Commercial Crime Unit.

The City shall establish within the Police Department a Commercial Crime Unit. The additional revenue generated above the current annual projected revenue of \$206,000 per year, shall be dedicated to the creation and the annual operating budget for a Commercial Crime Unit. (Ord. 07-X).

#### 5.04.173 Temporary Business.

1. A temporary business as defined in Section 5.04.030, must comply with all regulations in this chapter.

2. The business license fee for a temporary business shall be set by resolution of the City Council. A business license for a temporary business shall be valid until the initial temporary use permit expires. Any extension or renewal of a temporary use permit shall require an additional business license fee payment. (Ord. 07-X, Ord. 02-05, Ord. 88-13 §1(Exhibit A)(Part), 1988).

#### 5.04.180 Administration And Enforcement.

The City is authorized to conduct inspections to insure the administration and enforcement of this chapter. The Code Enforcement Officer(s) shall be responsible for the enforcement of this chapter. (Ord. 88-13 §1(Exhibit A)(part), 1988).

#### 5.04.190 Penalties.

1. Violation of this chapter shall constitute a Class 2 civil infraction which shall be processed according to the procedures established in Chapter 1.16 of this code, Civil Infractions.

2. Each violation of a separate provision of this chapter shall constitute a separate infraction, and each day that a violation of this chapter is committed or permitted to continue shall constitute a separate infraction.

3. A finding that a person has committed a civil infraction in violation of this chapter shall not act to relieve the person from payment of any unpaid business license, including delinquent charges, for which the person is liable. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the City.

4. Payment of the business license fee after the complaint and summons is served is not a defense.

5. Any applicant or licensee who fails to make an application for an initial business license, or for renewal of an existing business license along with the appropriate fee for the business license year, prior to the delinquency date as provided below shall be subject to a penalty. For the renewal of an existing business license, the business license fee shall be deemed delinquent if not paid by January 1<sup>st</sup> of the applicable business license year. If a person begins engaging in business after the start of the business license year, the license fee shall be deemed delinquent if the fee is not paid within thirty days after commencement of the business activity. Whenever the license fee is not paid on or before the delinquent date a penalty of ten percent (10%) of the license fee due and payable shall be added

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## TIGARD MUNICIPAL CODE

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**Chapter 5.04 BUSINESS LICENSES.**

**Sections:**

- 5.04.010 Short Title.**
- 5.04.020 Purpose.**
- 5.04.030 Definitions.**
- 5.04.040 Prohibited Business Operation.**
- 5.04.050 One Act Constitutes Doing Business.**
- 5.04.060 Agents Responsible For Obtaining A Business License.**
- 5.04.070 Separate License For Branch Establishments And Multiple Locations.**
- 5.04.080 Rental Real Property.**
- 5.04.090 Multiple Businesses At Same Locations.**
- 5.04.100 No Business License Required.**
- 5.04.110 Business License Required But Exempt From Business License Fee.**
- 5.04.120 Issuance Of Business License.**
- 5.04.130 Procedure For Obtaining A Business License.**
- 5.04.140 Display.**
- 5.04.150 Reissue Of Business License.**
- 5.04.155 Change In Business Ownership.**
- 5.04.160 Fee Schedule.**
- 5.04.165 Renewal.**
- 5.04.170 Commercial Crime Unit.**
- 5.04.173 Temporary Business.**
- 5.04.180 Administration And Enforcement.**
- 5.04.190 Penalties.**
- 5.04.200 Rate Review And Adjustment.**

**5.04.10 Short Title.**

The provisions of this chapter shall be known and may be cited as the "Business License Ordinance of the City of Tigard." (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.020 Purpose.**

The purpose of this licensing procedure is to assure compliance with the provisions of this chapter and defray the reasonable costs of administration of this chapter by any City Department involved in administration and enforcement activities under this chapter. The fees generated under authority of this chapter shall be in addition to, and not in lieu of, any other license permit fee, charge, tax or fine required under any ordinance of the City.

It is not intended by this chapter to repeal, abrogate or annul or in any way impair or interfere with the existing provisions of other laws or ordinances, except those specifically repealed by the ordinance codified in this chapter. Where this chapter imposes a greater restriction on persons, premises or personal property than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control.

The provisions of this chapter shall be deemed an exercise of the power of the City to license for revenue. The provisions of this chapter prescribing license fees shall be strictly construed in favor of the applicability of the license fee. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.030 Definitions.**

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory

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and not merely directory.

1. "Business" means all kinds of vocations, occupations, professions, enterprises, establishments, and all kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit, or benefit, either directly or indirectly, on any premises in the City, including home occupations.

2. A person "engages in business" within the meaning of this chapter when soliciting orders for future delivery, selling or offering for sale, trade or barter any goods, merchandise or service, performing any service for profit, delivering any goods or merchandise within the City, personally advertising by individual contract with residents of the City any goods, merchandise or service to be sold or performed within or without the City. Such activity shall also include engaging in an enterprise, establishment, store, shop, activity, profession or undertaking of any nature conducted, either directly or indirectly, for private profit or benefit.

3. "The City" means the City of Tigard, Oregon.

4. "City Council" means the City Council of the City of Tigard, Oregon.

5. "Full-time equivalent employee" means the total number of hours worked by all employees working within the City of Tigard divided by two thousand eighty hours, which equals the number of full-time equivalent employees working within the City of Tigard.

6. "Person" means and includes but is not limited to individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts or corporations; or any officers,

agents, employees, factors of any kind or personal representatives thereof, in any capacity, either on that person's own behalf, or for any other person, under either personal appointment or pursuant to law.

7. "Permanent business" means professions, trades, occupations, shops and all and every kind of calling carried on for profit, personal gain, trade or barter and livelihood at a fixed or permanently established place of business maintained within the City.

8. "Premises" means and includes all lands, structures, places and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is affixed to or is otherwise used in connection with any such business conducted on such premises.

9. "Temporary business" means any business that meets the criteria outlined in Chapter 18.385.050 of the Community Development Code and has a valid temporary use permit. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.040 Prohibited Business Operation.**

It shall be unlawful for any persons, either directly or indirectly, to engage in any business without having first obtained a business license and where applicable, a Home Occupation Permit and paying the business license fee as prescribed by this chapter. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.050 One Act Constitutes Doing Business.**

For the purpose of this chapter, any persons shall be deemed to be engaging in business or engaging in nonprofit enterprise, and thus subject

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to the requirements of Section 5.04.040, when undertaking one of the following acts:

1. Selling any goods or service;
2. Soliciting business or offering goods or services for sale, hire, trade or barter;
3. Acquiring or using any vehicle or any premises for business purposes in the City. (Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.060 Agents Responsible For Obtaining A Business License.**

The agents, representatives or other responsible parties doing business in the City shall be personally responsible for the compliance of their principals and of the businesses they represent with the provisions of this chapter. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.070 Separate License For Branch Establishments And Multiple Locations.**

If any person engages in business in more than one location in the City, a business license fee shall be paid in the manner prescribed in this chapter for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business; provided, that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments. Separately franchised operations shall be deemed separate businesses even if operated under the same name. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.080 Rental Real Property.**

Each rental real property shall be deemed a branch establishment or separate place of business for the purposes of this chapter when there is a representative of the owner or the owner's agents on the premises who is authorized to transact business for each owner or owner's agent, or there is a regular employee of the owner or of the owner's agent working on the premises. (Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.090 Multiple Businesses At Same Location.**

A person engaged in two or more businesses at the same location shall not be required to pay separate business license fees for conducting each such business; but, when eligible, shall be issued one business license which shall specify on its face all such businesses. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.100 No Business License Required.**

Notwithstanding the requirements of this chapter, the following shall not be required to apply for and obtain a business license:

1. No business license shall be required for any person for any mere delivery in the City of any property purchased or acquired in good faith from such person at the regular place of business outside the City.

2. Minors engaged in babysitting, delivery of newspapers, mowing lawns, washing cars, and similar activities.

3. City Sponsored events.

4. Casual or isolated sales (i.e. garage or moving sales) made by persons who are not

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engaged in the business of selling the type of property involved, provided that no more than four such sales are made annually and last no longer than three days at a time. (Ord. 07-X, Ord. 88-13 §1 (Exhibit A)(part), 1988).

**5.04.110 Business License Required But Exempt From Business License Fee.**

A non-profit business is required to obtain a business license, but shall be exempt from the business license fee. The City shall issue a business license, without requiring the payment of any business license fee therefor to any persons or organization for the conduct or operation of a nonprofit enterprise, either regular or temporary, when the City finds that the applicant operates without private profit, for a public, charitable, educational, literary, fraternal or religious purpose. A person or organization operating under nonprofit exemption shall operate the nonprofit enterprise in compliance with the provisions of this chapter and all other applicable rules and regulations. (Ord. 07-X, Ord. 88-13 §1(Exhibit A) (part), 1988).

**5.04.120 Issuance Of Business License.**

1. The City shall collect all business license fees and shall issue business licenses under the provisions of this chapter. The City shall promulgate and enforce rules and regulations necessary for the operation and enforcement of this chapter. Such rules shall be available to the public upon request.

2. Businesses which constitute a home occupation as defined in Chapter 18.385.020 of the Tigard community development code shall have a valid home occupation permit prior to the issuance of a business license. All other business licenses shall be issued upon written application

and receipt of the applicable fee by the City.

3. A duplicate business license shall be issued by the City to replace any business license previously issued which has been lost, stolen, defaced, or destroyed, without any willful conduct on the part of the licensee upon the filing by the licensee of a statement attesting to such a fact and paying the City the fee as provided in the City's fee schedule. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.130 Procedure For Obtaining A Business License.**

1. All business licenses shall be issued upon written application and receipt of the applicable fee by the City.

2. The business license application shall be completely filled out before a business license is issued.

3. An applicant seeking an exemption under section 5.04.110 shall submit an application therefor to the City upon the prescribed forms, and shall furnish such additional information and make such affidavits as the City shall require. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.140 Display.**

Upon payment of the business license fee a person shall be issued a business license by the City, which shall be kept posted in a conspicuous place on the business premises at all times. If there is no physical structure on which to display the business license, the business license shall be in the possession of the representative of the business present within the City at all times during which business is being transacted. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).



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**5.04.150 Reissue Of Business License.**

A business license may be reissued if incorrect information is recorded on the license as provided below:

1. If the reissue is the result of incorrect information due to an error by the City or a City employee, there will be no fee.

2. If the reissue is the result of incorrect information due to an error by the applicant or an agent of the applicant, a reissue fee in the same amount as the initial issue fee will be required.

3. If a business licensee relocates during the calendar year, City files will be updated but a new business license will not be issued until the next renewal business license is issued. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.155 Change In Business Ownership.**

If a person transfers or assigns a business for which a license has been paid, the license is transferable to the new owner after the receipt of a change of ownership fee. The change of ownership fee shall be established by resolution as provided for under section 5.04.160. The new owner shall inform the City of the change in ownership by paying the change in ownership fee and filing a new license application, but shall not have to pay an additional business license fee for that business license year. The new owner will retain the old license number for the remainder of the business license year. A change in the name of the business or change in the location of the business shall require a new business license application and an additional business license fee.

**5.04.160 Fee Schedule.**

1. All fees shall be set by resolution of the City Council.

2. The business license year shall be from January 1<sup>st</sup> to December 31<sup>st</sup>.

3. A business license will be valid from the date of issue through December 31<sup>st</sup> of that year.

4. The business license fee shall be paid annually in advance of the business license year. For businesses starting after January 1<sup>st</sup> of any year, the business license fee shall be paid within one month of commencing business. Businesses shall be liable for the license fee from the date they commence doing business within the City and not from the date that the license fee is paid or business license application is submitted.

5. The initial business license fee for an annual business license can be made at any time. There after the annual business license fee shall be due in full every January 1<sup>st</sup>. If a person engages in business at any time on or after July 1<sup>st</sup> of a business license year, the fee for such business license shall be equal to one-half the business license fee set forth in subsection 1 above. Irrespective of when during the period from January 1<sup>st</sup> to December 31<sup>st</sup> of such license year such person engaged in business, and each applicant must pay the full or partial fee for the current license year or any portion thereof during which the applicant has engaged in business.

6. There will be no business license fee refunds for businesses that cease operation or move out of the City during the business license year. (Ord. 07-X, Ord. 02-05, Ord. 88-13 §1(Exhibit A)(part), 1988).

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**05.04.165      Renewal.**

Application for renewal of all business licenses shall be made on or before December 31<sup>st</sup> of the year following the year of issuance, and each succeeding year, if the business is to be continued. Application for renewal shall be made on forms prescribed by the City manager or designee. A business which has an existing business license, and which has applied for renewal of such license on or before December 31<sup>st</sup> of the license year, may remain in business under its existing license until such time as the renewal license is either approved or denied. (Ord. 07-X).

**5.04.170      Commercial Crime Unit.**

The City shall establish within the Police Department a Commercial Crime Unit. The additional revenue generated above the current annual projected revenue of \$206,000 per year, shall be dedicated to the creation and the annual operating budget for a Commercial Crime Unit. (Ord. 07-X).

**5.04.173      Temporary Business.**

1. A temporary business as defined in Section 5.04.030, must comply with all regulations in this chapter.

2. The business license fee for a temporary business shall be set by resolution of the City Council. A business license for a temporary business shall be valid until the initial temporary use permit expires. Any extension or renewal of a temporary use permit shall require an additional business license fee payment. (Ord. 07-X, Ord. 02-05, Ord. 88-13 §1(Exhibit A)(Part), 1988).

**5.04.180      Administration And Enforcement.**

The City is authorized to conduct inspections

to insure the administration and enforcement of this chapter. The Code Enforcement Officer(s) shall be responsible for the enforcement of this chapter. (Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.190      Penalties.**

1. Violation of this chapter shall constitute a Class 2 civil infraction which shall be processed according to the procedures established in Chapter 1.16 of this code, Civil Infractions.

2. Each violation of a separate provision of this chapter shall constitute a separate infraction, and each day that a violation of this chapter is committed or permitted to continue shall constitute a separate infraction.

3. A finding that a person has committed a civil infraction in violation of this chapter shall not act to relieve the person from payment of any unpaid business license, including delinquent charges, for which the person is liable. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the City.

4. Payment of the business license fee after the complaint and summons is served is not a defense.

5. Any applicant or licensee who fails to make an application for an initial business license, or for renewal of an existing business license along with the appropriate fee for the business license year, prior to the delinquency date as provided below shall be subject to a penalty. For the renewal of an existing business license, the business license fee shall be deemed delinquent if not paid by January 1<sup>st</sup> of the applicable business license year. If a person begins engaging in business after the start of the business license year, the license fee shall be deemed delinquent if

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the fee is not paid within thirty days after commencement of the business activity. Whenever the license fee is not paid on or before the delinquent date a penalty of ten percent (10%) of the license fee due and payable shall be added for each calendar month or fraction thereof that the fee remains unpaid. The total amount of the delinquency penalty for any business license year shall not exceed one hundred percent (100%) of the business license fee due and payable for such year.

6. If a provision of this chapter is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this chapter. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.200      Rate Review And Adjustment.**

Adjustments in the administration and enforcement portion of this chapter may be made by the City Council following a cost analysis to occur annually during the budget cycle and in conformance with Chapter 3.32 of this code. (Ord. 88-13 §1(Exhibit A)(part), 1988).

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CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
ORDINANCE NO. 07-\_\_\_\_\_

Version 2

AN ORDINANCE AMENDING TIGARD MUNICIPAL CODE, TMC 5.04, MAKING  
CHANGES TO THE BUSINESS TAX STRUCTURE

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WHEREAS, TMC 5.04 established a City of Tigard business tax; and

WHEREAS, the code and fees have not been revised or changed since 1988; and

WHEREAS, a proposal to change the business tax to a business license and increase the fees has been presented to various representatives of the business community and received an overall favorable response; and

WHEREAS, other changes need to be made to the existing code to implement other recommended revisions that include changes to administrative and collection procedures; and

WHEREAS, there was further interest expressed for including certain conditions in the code that would allow the City Manager to suspend or revoke a business license in order to protect the public interest.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Chapter 5.04 of the Tigard Municipal Code is amended as shown in Attachment A (Version 2) to this ordinance. (Strike-through text is deleted; underlined text is added).

SECTION 2: This ordinance shall be effective January 1, 2008 after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By \_\_\_\_\_ vote of all Council members present after being read by number and title only, this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Craig Dirksen, Mayor

Approved as to form:

\_\_\_\_\_  
City Attorney

Date: \_\_\_\_\_

## TIGARD MUNICIPAL CODE

## Chapter 5.04 BUSINESS LICENSES.

### Sections:

- |          |   |
|----------|---|
| 5.04.010 | <u>Short Title.</u>   |
| 5.04.020 | <u>Purpose.</u>   |
| 5.04.030 | <u>Definitions.</u>   |
| 5.04.040 | <u>Prohibited Business Operation.</u>   |
| 5.04.050 | <u>One Act Constitutes Doing Business.</u>  |
| 5.04.060 | <u>Agents Responsible For Obtaining A Business <u>License.</u></u>                      |
| 5.04.070 | <u>Separate <u>License</u> For Branch Establishments <u>And Multiple Locations.</u></u> |
| 5.04.080 | <u>Rental Real Property.</u>  |
| 5.04.090 | <u><u>Multiple Businesses At Same Locations.</u></u>                                    |
| 5.04.100 | <u>No <u>Business License</u> Required.</u>   |
| 5.04.110 | <u>Business <u>License</u> Required But Exempt From Business License Fee.</u>           |
| 5.04.120 | <u>Issuance Of Business License.</u>  |
| 5.04.130 | <u>Procedure For Obtaining A Business License.</u>                                      |
| 5.04.140 | <u>Display.</u>   |
| 5.04.150 | <u>Reissue Of Business License Tax Receipt.</u>   |
| 5.04.155 | <u>Change in Business Ownership.</u>  |
| 5.04.160 | <u>Fee Schedule.</u>  |
| 5.04.165 | <u>Renewal.</u>   |
| 5.04.170 | <u>Commercial Crime Unit.</u>   |
| 5.04.173 | <u>Temporary Business.</u>  |
| 5.04.180 | <u>5.04.180 Administration And Enforcement.</u>   |
|          | <u>5.04.185 Suspension Or Revocation.</u>   |
| 5.04.190 | <u>Penalties.</u>   |
| 5.04.200 | <u>Rate Review And Adjustment.</u>  |

**5.04.10**      **Short Title.**

The provisions of this chapter shall be known  
and may be cited as the “Business License

Ordinance of the City of Tigard.” (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.020 Purpose.**

The purpose of this licensing procedure is to assure compliance with the provisions of this chapter and defray the reasonable costs of administration of this chapter by any City Department involved in administration and enforcement activities under this chapter. The fees generated under authority of this chapter shall be in addition to, and not in lieu of, any other license permit fee, charge, tax or fine required under any ordinance of the City.

It is not intended by this chapter to repeal, abrogate or annul or in any way impair or interfere with the existing provisions of other laws or ordinances, except those specifically repealed by the ordinance codified in this chapter. Where this chapter imposes a greater restriction on persons, premises or personal property than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control.

The provisions of this chapter shall be deemed an exercise of the power of the City to license for revenue. The provisions of this chapter prescribing license fees shall be strictly construed in favor of the applicability of the license fee. (Ord. 07-X, (Ord. 88-13 §(Exhibit A)(part), 1988).

### 5.04.030 Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the present tense include the future, words in the plural number include the singular number, and

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words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

1. "Business" means all kinds of vocations, occupations, professions, enterprises, establishments, and all kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit, or benefit, either directly or indirectly, on any premises in the City, including home occupations.

2. A person "engages in business" within the meaning of this chapter when soliciting orders for future delivery, selling or offering for sale, trade or barter any goods, merchandise or service, performing any service for profit, delivering any goods or merchandise within the City, personally advertising by individual contract with residents of the City any goods, merchandise or service to be sold or performed within or without the City. Such activity shall also include engaging in an enterprise, establishment, store, shop, activity, profession or undertaking of any nature conducted, either directly or indirectly, for private profit or benefit.

3. "The City" means the City of Tigard, Oregon.

4. "City Council" means the City Council of the City of Tigard, Oregon.

5. "Full-time equivalent employee" means the total number of hours worked by all employees working within the City of Tigard divided by two thousand eighty hours, which equals the number of full-time equivalent employees working within the City of Tigard.

6. "Person" means and includes but is not limited to individual natural persons, partnerships,

joint ventures, societies, associations, clubs, trustees, trusts or corporations; or any officers, agents, employees, factors of any kind or personal representatives thereof, in any capacity, either on that person's own behalf, or for any other person, under either personal appointment or pursuant to law.

7. "Permanent business" means professions, trades, occupations, shops and all and every kind of calling carried on for profit, personal gain, trade or barter and livelihood at a fixed or permanently established place of business maintained within the City.

8. "Premises" means and includes all lands, structures, places and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is affixed to or is otherwise used in connection with any such business conducted on such premises.

9. "Temporary business" means any business that meets the criteria outlined in Chapter 18.385.050 of the Community Development Code and has a valid temporary use permit. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.040 Prohibited Business Operation.**

It shall be unlawful for any persons, either directly or indirectly, to engage in any business without having first obtained a business license and where applicable a Home Occupation Permit and paying the business license fee as prescribed by this chapter. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.050 One Act Constitutes Doing Business.**

For the purpose of this chapter, any persons

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Deleted: 6. "Itinerant business" means all persons, firms or corporations, including merchants, solicitors, peddlers, hawkers and agents, engaging in the business in the City to sell or solicit for sale products or services, when such persons, firms or corporations do not maintain a permanent place of business within the City or who are not engaging in "temporary business" as defined below.¶

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shall be deemed to be engaging in business or engaging in nonprofit enterprise, and thus subject to the requirements of Section 5.04.040, when undertaking one of the following acts:

1. Selling any goods or service;
2. Soliciting business or offering goods or services for sale, hire, trade or barter;
3. Acquiring or using any vehicle or any premises for business purposes in the City. (Ord. 88-13 §1(Exhibit A)(part), 1988)

**5.04.060 Agents Responsible For Obtaining A Business License.**

The agents, representatives or other responsible parties doing business in the City shall be personally responsible for the compliance of their principals and of the businesses they represent with the provisions of this chapter. (Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.070 Separate License For Branch Establishments And Multiple Locations.**

If any person engages in business in more than one location in the City, a business license fee shall be paid in the manner prescribed in this chapter for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business; provided, that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments. Separately franchised operations shall be deemed separate businesses even if operated under the same name. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.080 Rental Real Property.**

Each rental real property shall be deemed a branch establishment or separate place of business for the purposes of this chapter when there is a representative of the owner or the owner's agents on the premises who is authorized to transact business for each owner or owner's agent, or there is a regular employee of the owner or of the owner's agent working on the premises. (Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.090 Multiple Businesses At Same Location.**

A person engaged in two or more businesses at the same location shall not be required to pay separate business license fees for conducting each such business; but, when eligible, shall be issued one business license which shall specify on its face all such businesses. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.100 No Business License Required.**

Notwithstanding the requirements of this chapter, the following shall not be required to apply for and obtain a business license:

1. No business license shall be required for any person for any mere delivery in the City of any property purchased or acquired in good faith from such person at the regular place of business outside the City.
2. Minors engaged in babysitting, delivery of newspapers, mowing lawns, washing cars, and similar activities.
3. City Sponsored events.
4. Casual or isolated sales (i.e. garage or

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### TIGARD MUNICIPAL CODE

moving sales) made by persons who are not engaged in the business of selling the type of property involved, provided that no more than four such sales are made annually and last no longer than three days at a time. (Ord. 07-X, Ord. 88-13 §1 (Exhibit A)(part), 1988).

#### 5.04.110 Business License Required But Exempt From Business License Fee.

1. A non-profit business is required to obtain a business license, but shall be exempt from the business license fee. The City shall issue a business license, without requiring the payment of any business license fee, therefor, to any persons or organization for the conduct or operation of a nonprofit enterprise, either regular or temporary, when the City finds that the applicant operates without private profit, for a public, charitable, educational, literary, fraternal or religious purpose. A person or organization operating under nonprofit exemption shall operate the nonprofit enterprise in compliance with the provisions of this chapter and all other applicable rules and regulations. (Ord. 07-X, Ord. 88-13 §1(Exhibit A) (part), 1988)

#### 5.04.120 Issuance Of Business License.

1. The City shall collect all business license fees and shall issue business licenses under the provisions of this chapter. The City shall promulgate and enforce rules and regulations necessary for the operation and enforcement of this chapter. Such rules shall be available to the public upon request.

2. Businesses which constitute a home occupation as defined in Chapter 18.385.020 of the Tigard community development code shall have a valid home occupation permit prior to the issuance of a business license. All other business

licenses shall be issued upon written application and receipt of the applicable fee by the City.

3. A duplicate business license shall be issued by the City to replace any business license previously issued which has been lost, stolen, defaced, or destroyed, without any willful conduct on the part of the licensee upon the filing by the licensee of a statement attesting to such a fact and paying the City a fee as provided in the City's fee schedule. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

#### 5.04.130 Procedure For Obtaining A Business License.

1. All business licenses shall be issued upon written application and receipt of the applicable fee by the City.

2. The business license application shall be completely filled out before a business license is issued.

3. An applicant seeking an exemption under section 5.04.110 shall submit an application therefor, to the City upon the prescribed forms, and shall furnish such additional information and make such affidavits as the City shall require. (Ord. 07 X, Ord. 88-13 §1(Exhibit A)(part), 1988).

#### 5.04.140 Display.

Upon payment of the business license fee a person shall be issued a business license by the City, which shall be kept posted in a conspicuous place on the business premises at all times. If there is no physical structure on which to display the business license, the business license shall be in the possession of the representative of the business present within the City at all times during which business is being transacted. (Ord. 07-X,

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Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.150 Reissue Of Business License.**

A business license may be reissued if incorrect information is recorded on the license as provided below:

1. If the reissue is the result of incorrect information due to an error by the City or a City employee, there will be no fee.

2. If the reissue is the result of incorrect information due to an error by the applicant or an agent of the applicant, a reissue fee in the same amount as the initial issue fee will be required.

3. If a business licensee relocates during the calendar year, City files will be updated but a new business license will not be issued until the next renewal business license is issued. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.155 Change In Business Ownership.**

If a person transfers or assigns a business for which a license has been paid, the license is transferable to the new owner after the receipt of a change of ownership fee. The change of ownership fee shall be established by resolution as provided for under section 5.04.160. The new owner shall inform the City of the change in ownership by paying the change in ownership fee and filing a new license application, but shall not have to pay an additional business license fee for that business license year. The new owner will retain the old license number for the remainder of the business license year. A change in the name of the business or change in the location of the business shall require a new business license application and an additional business license fee.

**5.04.160 Fee Schedule.**

1. All fees shall be set by resolution of the City Council.

2. The business license year shall be from January 1<sup>st</sup> to December 31<sup>st</sup>.

3. A business license will be valid from the date of issue through December 31<sup>st</sup> of that year.

4. The business license fee shall be paid annually in advance of the business license year. For businesses starting after January 1<sup>st</sup> of any year, the business license fee shall be paid within one month of commencing business. Businesses shall be liable for the license fee from the date they commence doing business within the City and not from the date that the license fee is paid or business license application is submitted.

5. The initial business license fee for an annual business license can be made at any time. There after the annual business license fee shall be due in full every January 1<sup>st</sup>. If a person engages in business at any time on or after July 1<sup>st</sup> of a business license year, the fee for such business license shall be equal to one-half the business license fee set forth in subsection 1 above. Irrespective of when during the period from January 1<sup>st</sup> to December 31<sup>st</sup> of such license year such person engaged in business, and each applicant must pay the full or partial fee for the current license year or any portion thereof during which the applicant has engaged in business.

6. There will be no business license fee refunds for businesses that cease operation or move out of the City during the business license year. (Ord. 07-X, Ord. 02-05, Ord. 88-13 §1(Exhibit A)(part), 1988).

**05.04.165 Renewal.**

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Application for renewal of all business licenses shall be made on or before December 31<sup>st</sup> of the year following the year of issuance, and each succeeding year, if the business is to be continued. Application for renewal shall be made on forms prescribed by the City manager or designee. A business which has an existing business license, and which has applied for renewal of such license on or before December 31<sup>st</sup> of the license year, may remain in business under its existing license until such time as the renewal license is either approved or denied. (Ord. 07-X).

**5.04.170      Commercial Crime Unit.**

The City shall establish within the Police Department a Commercial Crime Unit. The additional revenue generated above the current annual projected revenue of \$206,000 per year, shall be dedicated to the creation and the annual operating budget for a Commercial Crime Unit. (Ord. 07-X).

**5.04.173      Temporary Business.**

1. A temporary business as defined in Section 5.04.030, must comply with all regulations in this chapter.

2. The business license fee for a temporary business shall be set by resolution of the City Council. A business license for a temporary business shall be valid until the initial temporary use permit expires. Any extension or renewal of a temporary use permit shall require an additional business license fee payment. (Ord. 07-X, Ord. 02-05, Ord. 88-13 §1(Exhibit A)(Part), 1988).

**5.04.180      Administration And Enforcement.**

The City is authorized to conduct inspections to insure the administration and enforcement of this chapter. The Code Enforcement Officer(s) shall be responsible for the enforcement of this chapter. (Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.185      Suspension Or Revocation.**

The City manager or designee may deny, suspend or revoke a business license with cause. Cause for denial, suspension or revocation shall include, but not be limited to, the following:

1. The license was procured by fraud or misrepresentation of fact;

2. The licensee has failed to comply with any of the provisions of this chapter, or any other City ordinance including but not limited to the zoning code and other development regulations;

3. The licensee, or licensee's management personnel, have been convicted of a crime, or suffered civil judgment or consent decree which bears a direct relationship to the conduct of the business licensed pursuant to this chapter;

4. The licensee, or licensee's employees or agents, have violated any law or ordinance relating to the regulation of the business licensed pursuant to this chapter, or any other ordinance;

5. The licensee has caused or permitted a public nuisance to exist;

6. The licensee, or licensee's employees or agents, have engaged in, have permitted or have acquiesced in unlawful activity on the business premises;

7. The licensee has failed to pay a civil penalty or comply with any notice and order of the City; or

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¶ The City manager or designee may deny, suspend or revoke a business license with cause. Cause for denial, suspension or revocation shall include, but not be limited to, the following:¶

¶ 1. . The license was procured by fraud or misrepresentation of fact;¶

¶ 2. . The licensee has failed to comply with any of the provisions of this chapter, or any other City ordinance including but not limited to the zoning code and other development regulations;¶

¶ 3. . The licensee, or licensee's management personnel, have been convicted of a crime, or suffered civil judgment or consent decree which bears a direct relationship to the conduct of the business licensed pursuant to this chapter,

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8. The licensee's continued conduct of the business will, for any other reason, result in a substantial danger to the public health, safety or welfare. (Ord. 07-X.)

**5.04.190 Penalties.**

1. Violation of this chapter shall constitute a Class 2 civil infraction which shall be processed according to the procedures established in Chapter 1.16 of this code, Civil Infractions.

2. Each violation of a separate provision of this chapter shall constitute a separate infraction, and each day that a violation of this chapter is committed or permitted to continue shall constitute a separate infraction.

3. A finding that a person has committed a civil infraction in violation of this chapter shall not act to relieve the person from payment of any unpaid business license, including delinquent charges, for which the person is liable. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the City.

4. Payment of the business license fee after the complaint and summons is served is not a defense.

5. Any applicant or licensee who fails to make an application for an initial business license, or for renewal of an existing business license along with the appropriate fee for the business license year, prior to the delinquency date as provided below shall be subject to a penalty. For the renewal of an existing business license, the business license fee shall be deemed delinquent if not paid by January 1<sup>st</sup> of the applicable business license year. If a person begins engaging in business after the start of the business license

year, the license fee shall be deemed delinquent if the fee is not paid within thirty days after commencement of the business activity. Whenever the license fee is not paid on or before the delinquent date a penalty of ten percent (10%) of the license fee due and payable shall be added for each calendar month or fraction thereof that the fee remains unpaid. The total amount of the delinquency penalty for any business license year shall not exceed one hundred percent (100%) of the business license fee due and payable for such year.

6. If a provision of this chapter is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this chapter. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.200 Rate Review And Adjustment.**

Adjustments in the administration and enforcement portion of this chapter may be made by the City Council following a cost analysis to occur annually during the budget cycle and in conformance with Chapter 3.32 of this code. (Ord. 88-13 §1(Exhibit A)(part), 1988).

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**Chapter 5.04 BUSINESS LICENSES.**

Ord. 88-13 §1(Exhibit A)(part), 1988).

**Sections:**

**5.04.020 Purpose.**

- 5.04.010 Short Title.**
- 5.04.020 Purpose.**
- 5.04.030 Definitions.**
- 5.04.040 Prohibited Business Operation.**
- 5.04.050 One Act Constitutes Doing Business.**
- 5.04.060 Agents Responsible For Obtaining A Business License.**
- 5.04.070 Separate License For Branch Establishments And Multiple Locations.**
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- 5.04.200 Rate Review And Adjustment.**

The purpose of this licensing procedure is to assure compliance with the provisions of this chapter and defray the reasonable costs of administration of this chapter by any City Department involved in administration and enforcement activities under this chapter. The fees generated under authority of this chapter shall be in addition to, and not in lieu of, any other license permit fee, charge, tax or fine required under any ordinance of the City.

It is not intended by this chapter to repeal, abrogate or annul or in any way impair or interfere with the existing provisions of other laws or ordinances, except those specifically repealed by the ordinance codified in this chapter. Where this chapter imposes a greater restriction on persons, premises or personal property than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control.

The provisions of this chapter shall be deemed an exercise of the power of the City to license for revenue. The provisions of this chapter prescribing license fees shall be strictly construed in favor of the applicability of the license fee. (Ord. 07-X, (Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.030 Definitions.**

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural

**5.04.10 Short Title.**

The provisions of this chapter shall be known and may be cited as the "Business License Ordinance of the City of Tigard." (Ord. 07-X,

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number. The word "shall" is always mandatory and not merely directory.

1. "Business" means all kinds of vocations, occupations, professions, enterprises, establishments, and all kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit, or benefit, either directly or indirectly, on any premises in the City, including home occupations.

2. A person "engages in business" within the meaning of this chapter when soliciting orders for future delivery, selling or offering for sale, trade or barter any goods, merchandise or service, performing any service for profit, delivering any goods or merchandise within the City, personally advertising by individual contract with residents of the City any goods, merchandise or service to be sold or performed within or without the City. Such activity shall also include engaging in an enterprise, establishment, store, shop, activity, profession or undertaking of any nature conducted, either directly or indirectly, for private profit or benefit.

3. "The City" means the City of Tigard, Oregon.

4. "City Council" means the City Council of the City of Tigard, Oregon.

5. "Full-time equivalent employee" means the total number of hours worked by all employees working within the City of Tigard divided by two thousand eighty hours, which equals the number of full-time equivalent employees working within the City of Tigard.

6. "Person" means and includes but is not limited to individual natural persons, partnerships, joint ventures, societies, associations, clubs,

trustees, trusts or corporations; or any officers, agents, employees, factors of any kind or personal representatives thereof, in any capacity, either on that person's own behalf, or for any other person, under either personal appointment or pursuant to law.

7. "Permanent business" means professions, trades, occupations, shops and all and every kind of calling carried on for profit, personal gain, trade or barter and livelihood at a fixed or permanently established place of business maintained within the City.

8. "Premises" means and includes all lands, structures, places and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is affixed to or is otherwise used in connection with any such business conducted on such premises.

9. "Temporary business" means any business that meets the criteria outlined in Chapter 18.385.050 of the Community Development Code and has a valid temporary use permit. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.040 Prohibited Business Operation.**

It shall be unlawful for any persons, either directly or indirectly, to engage in any business without having first obtained a business license and where applicable, a Home Occupation Permit and paying the business license fee as prescribed by this chapter. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.050 One Act Constitutes Doing Business.**

For the purpose of this chapter, any persons shall be deemed to be engaging in business or

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engaging in nonprofit enterprise, and thus subject to the requirements of Section 5.04.040, when undertaking one of the following acts:

1. Selling any goods or service;
2. Soliciting business or offering goods or services for sale, hire, trade or barter;
3. Acquiring or using any vehicle or any premises for business purposes in the City. (Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.060      Agents Responsible For  
Obtaining A Business License.**

The agents, representatives or other responsible parties doing business in the City shall be personally responsible for the compliance of their principals and of the businesses they represent with the provisions of this chapter. (Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.070      Separate License For Branch  
Establishments And Multiple  
Locations.**

If any person engages in business in more than one location in the City, a business license fee shall be paid in the manner prescribed in this chapter for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business; provided, that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments. Separately franchised operations shall be deemed separate businesses even if operated under the same name. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.080      Rental Real Property.**

Each rental real property shall be deemed a branch establishment or separate place of business for the purposes of this chapter when there is a representative of the owner or the owner's agents on the premises who is authorized to transact business for each owner or owner's agent, or there is a regular employee of the owner or of the owner's agent working on the premises. (Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.090      Multiple Businesses At Same  
Location.**

A person engaged in two or more businesses at the same location shall not be required to pay separate business license fees for conducting each such business; but, when eligible, shall be issued one business license which shall specify on its face all such businesses. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.100      No Business License Required.**

Notwithstanding the requirements of this chapter, the following shall not be required to apply for and obtain a business license:

1. No business license shall be required for any person for any mere delivery in the City of any property purchased or acquired in good faith from such person at the regular place of business outside the City.
2. Minors engaged in babysitting, delivery of newspapers, mowing lawns, washing cars, and similar activities.
3. City Sponsored events.
4. Casual or isolated sales (i.e. garage or moving sales) made by persons who are not



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engaged in the business of selling the type of property involved, provided that no more than four such sales are made annually and last no longer than three days at a time. (Ord. 07-X, Ord. 88-13 §1 (Exhibit A)(part), 1988).

**5.04.110 Business License Required But Exempt From Business License Fee.**

1. A non-profit business is required to obtain a business license, but shall be exempt from the business license fee. The City shall issue a business license, without requiring the payment of any business license fee therefor to any persons or organization for the conduct or operation of a nonprofit enterprise, either regular or temporary, when the City finds that the applicant operates without private profit, for a public, charitable, educational, literary, fraternal or religious purpose. A person or organization operating under nonprofit exemption shall operate the nonprofit enterprise in compliance with the provisions of this chapter and all other applicable rules and regulations. (Ord. 07-X, Ord. 88-13 §1(Exhibit A) (part), 1988).

**5.04.120 Issuance Of Business License.**

1. The City shall collect all business license fees and shall issue business licenses under the provisions of this chapter. The City shall promulgate and enforce rules and regulations necessary for the operation and enforcement of this chapter. Such rules shall be available to the public upon request.

2. Businesses which constitute a home occupation as defined in Chapter 18.385.020 of the Tigard community development code shall have a valid home occupation permit prior to the issuance of a business license. All other business licenses shall be issued upon written application

and receipt of the applicable fee by the City.

3. A duplicate business license shall be issued by the City to replace any business license previously issued which has been lost, stolen, defaced, or destroyed, without any willful conduct on the part of the licensee upon the filing by the licensee of a statement attesting to such a fact and paying the City a fee as provided in the City's fee schedule. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.130 Procedure For Obtaining A Business License.**

1. All business licenses shall be issued upon written application and receipt of the applicable fee by the City.

2. The business license application shall be completely filled out before a business license is issued.

3. An applicant seeking an exemption under section 5.04.110 shall submit an application therefor to the City upon the prescribed forms, and shall furnish such additional information and make such affidavits as the City shall require. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.140 Display.**

Upon payment of the business license fee a person shall be issued a business license by the City, which shall be kept posted in a conspicuous place on the business premises at all times. If there is no physical structure on which to display the business license, the business license shall be in the possession of the representative of the business present within the City at all times during which business is being transacted. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

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City Council.

**5.04.150 Reissue Of Business License.**

A business license may be reissued if incorrect information is recorded on the license as provided below:

1. If the reissue is the result of incorrect information due to an error by the City or a City employee, there will be no fee.

2. If the reissue is the result of incorrect information due to an error by the applicant or an agent of the applicant, a reissue fee in the same amount as the initial issue fee will be required.

3. If a business licensee relocates during the calendar year, City files will be updated but a new business license will not be issued until the next renewal business license is issued. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.155 Change In Business Ownership.**

If a person transfers or assigns a business for which a license has been paid, the license is transferable to the new owner after the receipt of a change of ownership fee. The change of ownership fee shall be established by resolution as provided for under section 5.04.160. The new owner shall inform the City of the change in ownership by paying the change in ownership fee and filing a new license application, but shall not have to pay an additional business license fee for that business license year. The new owner will retain the old license number for the remainder of the business license year. A change in the name of the business or change in the location of the business shall require a new business license application and an additional business license fee.

**5.04.160 Fee Schedule.**

1. All fees shall be set by resolution of the

2. The business license year shall be from January 1<sup>st</sup> to December 31<sup>st</sup>.

3. A business license will be valid from the date of issue through December 31<sup>st</sup> of that year.

4. The business license fee shall be paid annually in advance of the business license year. For businesses starting after January 1<sup>st</sup> of any year, the business license fee shall be paid within one month of commencing business. Businesses shall be liable for the license fee from the date they commence doing business within the City and not from the date that the license fee is paid or business license application is submitted.

5. The initial business license fee for an annual business license can be made at any time. There after the annual business license fee shall be due in full every January 1<sup>st</sup>. If a person engages in business at any time on or after July 1<sup>st</sup> of a business license year, the fee for such business license shall be equal to one-half the business license fee set forth in subsection 1 above. Irrespective of when during the period from January 1<sup>st</sup> to December 31<sup>st</sup> of such license year such person engaged in business, and each applicant must pay the full or partial fee for the current license year or any portion thereof during which the applicant has engaged in business.

6. There will be no business license fee refunds for businesses that cease operation or move out of the City during the business license year. (Ord. 07-X, Ord. 02-05, Ord. 88-13 §1(Exhibit A)(part), 1988).

**05.04.165 Renewal.**

Application for renewal of all business licenses shall be made on or before December 31<sup>st</sup>

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of the year following the year of issuance, and each succeeding year, if the business is to be continued. Application for renewal shall be made on forms prescribed by the City manager or designee. A business which has an existing business license, and which has applied for renewal of such license on or before December 31<sup>st</sup> of the license year, may remain in business under its existing license until such time as the renewal license is either approved or denied. (Ord. 07-X).

**5.04.170 Commercial Crime Unit.**

The City shall establish within the Police Department a Commercial Crime Unit. The additional revenue generated above the current annual projected revenue of \$206,000 per year, shall be dedicated to the creation and the annual operating budget for a Commercial Crime Unit. (Ord. 07-X).

**5.04.173 Temporary Business.**

1. A temporary business as defined in Section 5.04.030, must comply with all regulations in this chapter.

2. The business license fee for a temporary business shall be set by resolution of the City Council. A business license for a temporary business shall be valid until the initial temporary use permit expires. Any extension or renewal of a temporary use permit shall require an additional business license fee payment. (Ord. 07-X, Ord. 02-05, Ord. 88-13 §1(Exhibit A)(Part), 1988).

**5.04.180 Administration And Enforcement.**

The City is authorized to conduct inspections to insure the administration and enforcement of this chapter. The Code Enforcement Officer(s)

shall be responsible for the enforcement of this chapter. (Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.185 Suspension Or Revocation.**

The City manager or designee may deny, suspend or revoke a business license with cause. Cause for denial, suspension or revocation shall include, but not be limited to, the following:

1. The license was procured by fraud or misrepresentation of fact;

2. The licensee has failed to comply with any of the provisions of this chapter, or any other City ordinance including but not limited to the zoning code and other development regulations;

3. The licensee, or licensee's management personnel, have been convicted of a crime, or suffered civil judgment or consent decree which bears a direct relationship to the conduct of the business licensed pursuant to this chapter;

4. The licensee, or licensee's employees or agents, have violated any law or ordinance relating to the regulation of the business licensed pursuant to this chapter, or any other ordinance;

5. The licensee has caused or permitted a public nuisance to exist;

6. The licensee, or licensee's employees or agents, have engaged in, have permitted or have acquiesced in unlawful activity on the business premises;

7. The licensee has failed to pay a civil penalty or comply with any notice and order of the City; or

8. The licensee's continued conduct of the business will, for any other reason, result in a



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substantial danger to the public health, safety or welfare. (Ord. 07-X.)

**5.04.190 Penalties.**

1. Violation of this chapter shall constitute a Class 2 civil infraction which shall be processed according to the procedures established in Chapter 1.16 of this code, Civil Infractions.

2. Each violation of a separate provision of this chapter shall constitute a separate infraction, and each day that a violation of this chapter is committed or permitted to continue shall constitute a separate infraction.

3. A finding that a person has committed a civil infraction in violation of this chapter shall not act to relieve the person from payment of any unpaid business license, including delinquent charges, for which the person is liable. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the City.

4. Payment of the business license fee after the complaint and summons is served is not a defense.

5. Any applicant or licensee who fails to make an application for an initial business license, or for renewal of an existing business license along with the appropriate fee for the business license year, prior to the delinquency date as provided below shall be subject to a penalty. For the renewal of an existing business license, the business license fee shall be deemed delinquent if not paid by January 1<sup>st</sup> of the applicable business license year. If a person begins engaging in business after the start of the business license year, the license fee shall be deemed delinquent if the fee is not paid within thirty days after commencement of the business activity.

Whenever the license fee is not paid on or before the delinquent date a penalty of ten percent (10%) of the license fee due and payable shall be added for each calendar month or fraction thereof that the fee remains unpaid. The total amount of the delinquency penalty for any business license year shall not exceed one hundred percent (100%) of the business license fee due and payable for such year.

6. If a provision of this chapter is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this chapter. (Ord. 07-X, Ord. 88-13 §1(Exhibit A)(part), 1988).

**5.04.200 Rate Review And Adjustment.**

Adjustments in the administration and enforcement portion of this chapter may be made by the City Council following a cost analysis to occur annually during the budget cycle and in conformance with Chapter 3.32 of this code. (Ord. 88-13 §1(Exhibit A)(part), 1988).

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Agenda Item #

Meeting Date

August 14, 2007

## COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Consider a Resolution Modifying the FY 2007-08 Citywide Master Fees and Charges Schedule to Incorporate Changes to the City's Business License

Prepared By: Chief Bill Dickinson Dept Head Approval:  City Mgr Approval: 

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### ISSUE BEFORE THE COUNCIL

Should the City Council approve a resolution changing the Business License fees and other related fees in the Citywide Fees and Charges Schedule?

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### STAFF RECOMMENDATION

Staff recommends that the Council approve the resolution.

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### KEY FACTS AND INFORMATION SUMMARY

Tigard Municipal Code (TMC 5.04 – Business Licenses) requires that all fees be established by resolution of the City Council. Also, when the FY 2007-08 Citywide Fees and Charges was approved by the Council on June 12, 2007, work had not been completed on the proposal to increase the City's business license. The increase would be used as dedicated revenue to support the creation and annual funding of a Commercial Crime Unit in the Police Department.

At the Council workshop on June 19, 2007, the Chief of Police reported back to the Council on the results of various business group meetings where the proposal to increase the business license was presented. It was reported that formal presentations were given to the Rotary, Kiwanis, Chamber of Commerce Business Advocacy Group, Chamber Board, Downtown Business Association, management of Washington Square Mall, and a business group called Tigard Together. It was also reported that the overall response was favorable and that some groups had actually formally endorsed the proposal. The groups, however, expressed that the favorable endorsement was being given on the assumption that the additional revenue would be dedicated to the annual funding of the Commercial Crime Unit.

After hearing the feedback that was received from the business community at the workshop, Council gave staff direction to proceed with implementation of the new police unit and changes in the business license. The changes include transitioning from a business tax to a business license. This resolution is necessary to revise the Citywide Fees and Charges Schedule to implement the changes. The changes include the new rates and rate structure, annual adjustment of the rates using the Portland Consumer Price Index (CPI), modifying how the rates are prorated, and establishing a delinquency charge.

The additional revenues and expenses for the Commercial Crime Unit were not included in the FY 2007-08 Adopted Budget. A budget amendment establishing spending authority for creation of the unit will also be on a City Council Business Meeting agenda along with an ordinance to make the related changes in the Tigard Municipal Code to transition to a City business license program.

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**OTHER ALTERNATIVES CONSIDERED**

Not pursue the funding for a Commercial Crime Unit in the Police Department by increasing the business license fees.

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**CITY COUNCIL GOALS**

This would be part of the work items referred to in the 2007 City Council goals that would foster and create enhanced public safety.

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**ATTACHMENT LIST**

Resolution with Exhibit A

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**FISCAL NOTES**

It is projected that the change in the rate structure would generate over \$350,000 per year and would be used to fund a Commercial Crime Unit in the Police Department.

CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
RESOLUTION NO. 07-\_\_\_\_\_

A RESOLUTION REVISING THE FY 2007-08 CITYWIDE MASTER FEES AND CHARGES SCHEDULE TO INCORPORATE CHANGES IN THE CITY'S BUSINESS LICENSE FEE

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WHEREAS, the City of Tigard has a Master Fees and Charges Schedule; and

WHEREAS, the City Council approved an ordinance changing the business tax to a business license fee; and

WHEREAS, City staff has proposed an increase in the City's business license fee that would be dedicated to the funding of a Commercial Crime Unit in the Police Department ; and

WHEREAS, the proposed increase in the business license fee has been supported by various groups in the Tigard business community; and

WHEREAS, Tigard Municipal Code 5.04 requires that all fees be set by resolution of the City Council.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The fees and charges for the City of Tigard are revised for the business license fee and set as shown in the attached schedule (Exhibit A).

SECTION 2: This resolution is effective January 1, 2008.

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_ 2007.

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Mayor - City of Tigard

ATTEST:

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City Recorder - City of Tigard

**Exhibit A**  
**Revised Citywide Fees and Charges Schedule**  
**Business License**

|   |   | <b>Annual<br/>Fee</b> | <b>Effective<br/>Date</b> |
|---|---|-----------------------|---------------------------|
| <b>Current:</b>   | <b>Business Tax</b>                     |                       | <b>5/16/1988</b>          |
| <b>Annual Fee</b>   |   |                       |                           |
|   | 0 - 10 employees                        | \$55.00               |                           |
|   | 11 - 50 employees                       | \$110.00              |                           |
|   | 51 or more employees                    | \$220.00              |                           |
| <b>Prorated Fee</b>   |   |                       |                           |
| for the initial month when issued on or before the 15th of the month  |   |                       |                           |
|   | 0 - 10 employees                        | \$4.58                |                           |
|   | 11 - 50 employees                       | \$9.17                |                           |
|   | 51 or more employees                    | \$18.33               |                           |
| for the initial month when issued after the 15th of the month   |   |                       |                           |
|   | 0 - 10 employees                        | \$2.29                |                           |
|   | 11 - 50 employees                       | \$4.59                |                           |
|   | 51 or more employees                    | \$9.17                |                           |
| for each month after the initial month until the next annual billing cycle begins (January 1)   |   |                       |                           |
|   | 0 - 10 employees                        | \$4.58                |                           |
|   | 11 - 50 employees                       | \$9.17                |                           |
|   | 51 or more employees                    | \$18.33               |                           |
| <b>New:</b>   | <b>Business License Fee</b>             |                       | <b>1/1/2008</b>           |
| <b>Annual Business License Fee</b>  |   |                       |                           |
|   | 0 - 2 employees                         | \$75.00               |                           |
|   | 3 - 5 employees                         | \$100.00              |                           |
|   | 6 - 10 employees                        | \$325.00              |                           |
|   | 11 - 50 employees                       | \$525.00              |                           |
|   | 51 or more employees                    | \$725.00              |                           |
| <b>Prorated Fee</b>   |   |                       |                           |
|   | Issued January 1 through June 30        | Annual Fee            |                           |
|   | Issued July 1 through December 31       | 1/2 the Annual Fee    |                           |
| <b>Temporary License</b>  |   | \$25.00               |                           |
| <b>Annual Adjustment</b>  |   |                       |                           |
|   | Portland Consumer Price Index (CPI)     |                       |                           |
| <b>Duplicate License/Change of Ownership Fee</b>  |   |                       |                           |
|   | Change in ownership or name only.       | \$10.00               |                           |
|   | Copy or replacement of business license | \$10.00               |                           |
| <b>Delinquency Charge:</b>  |   |                       |                           |
| Whenever the business license fee is not paid on or before the delinquent date, a delinquency charge equal to ten percent (10%) of the original business license fee due and payable shall be added for each calendar month or fraction thereof that the fee remains unpaid. The total amount of the delinquency penalty for any business license year shall not exceed one hundred percent (100%) of the business license fee due and payable for such year. |   |                       |                           |

Agenda Item #

Meeting Date

August 14, 2007

## COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Resolution Approving Budget Amendment #1 to the FY 2007-08 Budget Increasing Appropriations by \$314,279 in the Police Budget Within the Community Services Program, to Reflect Increases in Expenditures as a Result of Implementing a Commercial Crime Unit.

Prepared By: Robert Sesnon

Dept Head Approval:

RAS  
*cdw*

City Mgr Approval:

CR

### ISSUE BEFORE THE COUNCIL

Shall the City Council approve Budget Amendment #1 increasing appropriations in the Police budget for funding of a Commercial Crime Unit?

### STAFF RECOMMENDATION

Staff recommends approval of Budget Amendment #1.

### KEY FACTS AND INFORMATION SUMMARY

During the June 19, 2007 Council Workshop meeting, Council approved the formation of a Commercial Crime Unit in the Police Operations division of the Police Department. This new service is to be funded from increases in the City's business tax permit fees. It is anticipated that the commercial crime unit will be in operation for only nine months of the current fiscal year.

This budget amendment transfers \$314,279 from the General Fund contingency to the Police budget within the Community Service Program. While increases in the City's Business Tax will offset these costs, Oregon budget law prohibits the city from increasing the revenue budget without completing a time-consuming supplemental budget process involving the Budget Committee. Therefore staff does not recommend that the revenue budget be increased. Nevertheless, the related business tax increase is anticipated to generate an additional \$353,000 in fees and charges revenues to the general fund.

### OTHER ALTERNATIVES CONSIDERED

None

### CITY COUNCIL GOALS

Not Applicable

### ATTACHMENT LIST

Resolution including Attachment A.

### FISCAL NOTES

This resolution transfers \$314,279 from the General Fund Contingency to the Police budget for funding of a Commercial Crime Unit.

CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
RESOLUTION NO. 07-\_\_\_\_\_

A RESOLUTION APPROVING BUDGET AMENDMENT #1 TO THE FY 2007-08 BUDGET TO INCREASE APPROPRIATIONS IN THE POLICE BUDGET WITHIN THE COMMUNITY SERVICE PROGRAM FOR FUNDING OF A COMMERCIAL CRIME UNIT.

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WHEREAS, in response to a need to concentrate public safety services in the commercial areas of the City of Tigard; and

WHEREAS, during the June 19, 2007 workshop meeting the City Council discussed and approved the formation of a commercial crime unit to focus exclusively on crimes within the commercial area; and

WHEREAS, during the June 19, 2007 workshop meeting the City Council also agreed to increase the business tax permit fees in order to fund the operating costs associated with the formation of the commercial crime unit; and

WHEREAS, it is now necessary to amend the FY 2007-08 Budget to increase appropriations in the Police budget.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The FY 2007-08 Budget is hereby amended as shown in Attachment A to this resolution to transfer \$314,279 from the General Fund contingency to the Police budget in the Community Service program to pay for the first nine months operating costs associated with this new service.

SECTION 2: This resolution is effective immediately upon passage.

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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Mayor - City of Tigard

ATTEST:

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City Recorder - City of Tigard



City of Tigard  
Attachment A  
Fiscal Year 2007-08  
Budget Amendment #1

|                                   | Original<br>Revised<br>Budget | Amendment        | Revised<br>Revised<br>Budget |
|-----------------------------------|-------------------------------|------------------|------------------------------|
| <b>General Fund</b>               |                               |                  |                              |
| <b>Resources</b>                  |                               |                  |                              |
| Beginning Fund Balance            | \$8,838,290                   |                  | \$8,838,290                  |
| Property Taxes                    | 10,995,778                    |                  | 10,995,778                   |
| Interagency Revenues              | 4,284,888                     |                  | 4,284,888                    |
| Fees & Charges                    | 1,411,350                     |                  | 1,411,350                    |
| Fines and Forfeitures             | 797,400                       |                  | 797,400                      |
| Franchise Fees                    | 3,974,545                     |                  | 3,974,545                    |
| Interest Earnings                 | 336,345                       |                  | 336,345                      |
| Other Revenues                    | 20,000                        |                  | 20,000                       |
| Transfers In from Other Funds     | 2,965,162                     |                  | 2,965,162                    |
| <b>Total Resources</b>            | <b>\$33,623,758</b>           | <b>\$0</b>       | <b>\$33,623,758</b>          |
| <b>Requirements</b>               |                               |                  |                              |
| Community Service Program         | 14,108,212                    | 314,279          | 14,422,491                   |
| Public Works Program              | 3,084,603                     |                  | 3,084,603                    |
| Community Development Program     | 3,384,411                     |                  | 3,384,411                    |
| Policy & Administration Program   | 416,368                       |                  | 416,368                      |
| General Government                | 30,000                        |                  | 30,000                       |
| <b>Program Expenditures Total</b> | <b>\$21,023,594</b>           | <b>\$314,279</b> | <b>\$21,337,873</b>          |
| Debt Service                      | 0                             |                  | 0                            |
| Loan to CCDA                      | 80,000                        |                  | 80,000                       |
| Capital Projects                  | 0                             |                  | 0                            |
| Transfers to Other Funds          | 6,257,877                     |                  | 6,257,877                    |
| Contingency                       | 1,000,000                     | (314,279)        | 685,721                      |
| <b>Total Budget</b>               | <b>\$28,361,471</b>           | <b>\$0</b>       | <b>\$28,361,471</b>          |
| <b>Ending Fund Balance</b>        | <b>5,262,288</b>              | <b>0</b>         | <b>5,262,288</b>             |
| <b>Total Requirements</b>         | <b>\$33,623,759</b>           | <b>\$0</b>       | <b>\$33,623,759</b>          |

Agenda Item #

Meeting Date

August 14, 2007

## CITY CENTER DEVELOPMENT AGENCY AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Downtown Urban Design Update- CCAC and Planning Commission Recommendations

Prepared By: Sean Farrelly, Associate Planner Dept Head Approval: TC

City Mgr Approval: cl

### ISSUE BEFORE THE CITY CENTER DEVELOPMENT AGENCY

The City Center Advisory Commission and Planning Commission have made recommendations on a format and level of design regulations for Downtown. Staff has proposed a process and timeline for developing these regulations.

### STAFF RECOMMENDATION

Receive a briefing on the recommended format and level of design regulations for Downtown and the timeline to implement. If the City Council determines that the recommended approach is appropriate, staff should be directed to proceed.

### KEY FACTS AND INFORMATION SUMMARY

The recently updated Comprehensive Plan chapter for the Downtown Urban Renewal District includes Action Measure 11.A.1 which states: "Develop design guidelines and standards that encourage attractive and inviting downtown commercial and residential architecture with quality design and permanent materials, particularly in the building fronts and streetscape."

A subcommittee made up of members of the CCAC and Planning Commission was formed to recommend a format and level of design regulation appropriate to the Downtown Urban Renewal District. After reviewing different examples of design regulations, they recommended the development and adoption of a "hybrid" code: one that incorporates a form-based code approach toward building form, but uses provisions, processes and standards of the existing development code. They outlined several principles to be included in the new regulations

The subcommittee recommended that the design regulations for the Downtown follow a development process with three alternate ways to receive approval based upon the complexity of the development and the applicant's wishes.

1. **Clear and objective track:** These standards would consist of illustrations or diagrams demonstrating the desired form of development. The applicant's compliance could be determined by a checklist and the decision would be made as a Type II decision by staff with appeal to a review body.
2. **Discretionary track:** "Discretionary" standards use qualitative statements, where there is more than one way for a designer to meet the standard. This track would result in a Type III decision with public hearing by a review board. In exchange for more flexibility, there is more scrutiny by review board and the public process.

3. **The “over the counter” track:** would be used for applications for minor changes and additions to existing development. If the applicant demonstrates that applicable criteria were met, a decision would be issued within a short period of time.

The Planning Commission accepted the subcommittee recommendations. The CCAC formally endorsed the subcommittee proposals and made two additional recommendations.

Phase II of the Downtown Design Regulations Project will entail developing the specific content and administrative procedures of new design and zoning regulations. The primary citizen working group would be a joint CCAC/ Planning Commission subcommittee, who will review materials produced by staff and consultants. Key stakeholders, such as property owners and developers, will be invited to participate. The City Council public hearings on the new regulations are tentatively scheduled for May 2008.

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#### **OTHER ALTERNATIVES CONSIDERED**

None considered.

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#### **CITY COUNCIL GOALS**

Goal 2: “Continue to Support Implementation of the Downtown Plan.”  
Goal 4: “Improve Council / Citizen Communications”

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#### **ATTACHMENT LIST**

Attachment 1: Memo to Council dated July 23, 2007  
Attachment 2: Memo to Planning Commission/CCAC dated June 26, 2007

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#### **FISCAL NOTES**

Not Applicable.



# MEMORANDUM

TO: City Center Development Agency

FROM: Sean Farrelly, Associate Planner

RE: Downtown Design Regulations Project Process and Timeline

DATE: July 23, 2007

As part of the process to develop and implement new design regulations for Downtown development, the Planning Commission and the City Center Advisory Commission reviewed the memo dated June 26, 2007, which outlines the recommendation of the joint CCAC/Planning Commission subcommittee.

On July 16, the Planning Commission accepted the recommendations of the subcommittee.

On July 18, the City Center Advisory Commission was briefed. They endorsed the memo, with two additional recommendations to be forwarded to Council:

- 1) A specific recommendation that an architectural review board be employed for the discretionary track projects, and possibly the clear and objective track, pending the CCAC's review of the new code.
- 2) That in the development of the clear and objective track building design code, the City should employ a form-based design code specialist to assist in the formulation of that code, and that the City also takes steps to ensure that City staff is properly trained in the understanding and application of form-based design codes to administer the regulations.

## **Next Steps: Downtown Design Regulations Project Process and Timeline**

Phase II of the Downtown Design Regulations Project will entail developing the specific content and administrative procedures of new design and zoning regulations, to be informed by citizen and stakeholder involvement.

### **1) Development of Regulations**

Zoning regulations, site planning and building design regulations shall emphasize the Tigard Downtown Improvement Plan's vision of a pedestrian-oriented urban village character and will implement the recently updated Comprehensive Plan goals, policies, and action measures for the Downtown Urban Renewal District.

A first step in developing the regulations will be to create a visual representation of the desired urban forms called for in the TDIP. This visualization could also be derived from concepts and building forms from other localities with high quality urban design.

#### *Design Regulations*

The intent of new regulations should be to require high quality development without increasing the difficulty and timeline of the approval process. This is particularly important in the early stages of Downtown redevelopment, because perceived hurdles can discourage new investment in an unproven market.

The following aspects will be addressed:

- Exact criteria for when each of the tracks can be used
- Clear and objective design standards, with illustrated development standards and expected building forms, and corresponding discretionary design guidelines
- Non-conforming uses, thresholds, and incentives
- Incentives for certain development features
- Building and urban form typologies

#### *Land Use Map and Zoning*

A new land use map and revised zoning for the Urban Renewal District will be based on the real estate development strategy that will be completed in September. New zoning districts and regulations would reflect the land uses that are found to be most feasible for the area.

#### *Other Land Use and Urban Design Planning Projects*

Other projects that are part of the Land Use and Urban Design Planning process, the block size and circulation plan, as well as the determination of the north-south connection ("Urban Creek" feasibility), will be incorporated into the new regulations.

## **2) Citizen Involvement**

The creation of the new regulations will involve a high degree of collaboration between staff, citizens, and consultants (hired to perform certain tasks- such as the creation of graphics to illustrate design standards.)

- A Citizen Advisory Team (CAT) will be formed, to be composed of City Center Advisory Commission and Planning Commission members. The team will participate in developing regulations by reviewing staff-created "policy principles", examples of code text and illustrations/ photos. Staff will develop the specific code language for CAT approval.
- A Technical Advisory Team (TAT) will also be formed, composed of key staff members to review project progress and issues.
- Other stakeholders to be engaged include Tualatin Valley Fire and Rescue, Clean Water Services, and local utilities.
- A focus group of real estate developers will be convened to test the economic feasibility of regulations.
- City Center Advisory Commission will review draft code language.

- ## Tentative Downtown Design Regulations Timeline

[illegible]





# MEMORANDUM

TO: City Center Advisory Commission and Planning Commission

FROM: Sean Farrelly, Associate Planner

RE: City Center Advisory Commission/Planning Commission Joint Subcommittee Recommendations for Downtown Design Regulations

DATE: June 26, 2007

A joint subcommittee of the City Center Advisory Commission and the Planning Commission was formed in April, 2007 to recommend a format and level of design regulation appropriate to the Downtown Urban Renewal District. In addition to meeting several times, two members of the subcommittee also attended an all-day training session on form-based codes organized by the Oregon chapter of the American Planning Association. The following details the subcommittee's proposals.

The joint subcommittee has recommended the development and adoption of a "hybrid" code: one that incorporates a form-based code approach toward building form, but uses provisions, processes, and standards of the existing development code. This recommendation was made after reviewing and deliberating over different examples of codes that regulate design. The members came to consensus that the following criteria should be addressed by a "hybrid" code:

- Be flexible, but require high quality design.
- Employ greater use of graphics to explain community goals and desired urban form to applicants, neighborhood groups and administrators.
- Illustrate development standards and expected building forms with plans, sections, illustrations, and multiple photo examples.
- Consider the building "walls" that frame the Right of Way (the "public realm") as the primary determinant of form.
- Take development feasibility and economics into account.
- Coordinate building and street design.
- Provide predictability for urban form.
- More gradual form transition (tapering of building height, bulk, and massing) between adjacent areas with different development intensities.
- Address green spaces and character.
- Require new development to be designed by a registered architect.
- Facilitate the transition of uses over time.
- Innovative nonconforming development and use regulations (new work on nonconforming structures must move toward conformance). Employ incentives

such as façade improvement grants, ombudsman (staff person) who can provide technical assistance and/or create “deals” to encourage existing development to conform to new regulations.

### **Process**

The subcommittee recommended that the design regulations for the Downtown follow a system with three alternate ways to receive approval based upon the complexity of the development and the applicant’s wishes:

- 1) **Clear and objective track:** This track would emphasize quantifiable “clear and objective” standards. For example, a “clear and objective” standard for a façade is:  
*“For buildings facing public street right-of way, design and construct ground floor facades with at least 65 percent window area. Such windows shall not be mirrored or treated in such a way as to block views into the building.”*  
The applicant’s compliance could be determined by a checklist. The decision would be made as a Type II decision by staff and could be appealed to a review body: the Planning Commission, Hearings Officer or a new “design review board.”

As part of the subcommittee discussions, a legal opinion was obtained from the City Attorney regarding the legality of form based codes and illustrated regulations. It was his opinion that illustrations or diagrams demonstrating the desired form of development would be considered clear and objective standards under Oregon law.

- 2) **Discretionary track:** “Discretionary” standards use qualitative statements, where there is more than one way for a designer to meet the standard. An example of a discretionary standard is: *“Provide views into shops and offices for ground floor facades along the public sidewalk.”*

This track would result in a Type III decision with public hearing by a review board (either an existing body i.e., the Planning Commission, or a new body created for this purpose.) In exchange for more flexibility, there is more scrutiny by review board and the public process. The process must result in a timely decision.

- 3) The **“over the counter” track** would be used for applications for minor changes and additions to existing development (up to a threshold to be determined, but could be similar to the current code’s “minor modification” standards.) If the applicant demonstrates that applicable criteria were met, a decision would be issued within a short period of time (perhaps a week), in the form of a “compliance letter.”

Such a three-track system would demonstrate flexibility, in that it would allow projects that did not meet the objective standards to have an alternative way to gain approval.

### **Next Steps**

The members of the subcommittee will take these recommendations to their respective bodies i.e., the CCAC and Planning Commission, for comment. On August 14, these recommendations and any Planning Commission and CCAC comments will be presented to the City Council. Council will also be asked to provide its input. Following this, staff will develop a timeline and process to work on Phase II, including public input, developing the code language and graphics.

Agenda Item #

Meeting Date

August 14, 2007

## COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Finalization of Sanitary Sewer Reimbursement District No. 37 (SW 87<sup>th</sup> and Hall Blvd.)

Prepared By: G. Berry Dept Head Approval: TC City Mgr Approval: JP

### ISSUE BEFORE THE COUNCIL

Finalize Sanitary Sewer Reimbursement District No. 37, established to construct sanitary sewers in SW 87<sup>th</sup> and Hall Blvd.

### STAFF RECOMMENDATION

Approve, by motion, the proposed resolution finalizing Reimbursement District No. 37 as modified by the Final City Engineer's Report.

### KEY FACTS AND INFORMATION SUMMARY

- Council approved the formation of Reimbursement District No. 37 by Resolution No. 07-06 on January 23, 2007 following an informational hearing. Since then, construction of the improvements has been completed and final costs have been determined. The City Engineer's Report has been revised accordingly. On July 30, 2007, notices of the hearing to finalize the district were mailed to owners within the district.
- The sewers within the reimbursement district were constructed as part of a construction project awarded by City Council on February 27, 2007. Serving the six lots within the reimbursement district required boring across SW Hall Boulevard to an existing sewer in SW Merlyne Court. This boring also provided service to ten other lots along south side of SW McDonald Street. These ten lots were provided with access to a main line constructed in 1992 through Reimbursement District No. 1. The downstream end of the main line was terminated at SW Hall Boulevard leaving the lots without service. This mainline was connected to the line crossing SW Hall Boulevard and is now functional.
- This Reimbursement District installed sewer service to six lots along SW 87<sup>th</sup> Court and Hall Boulevard. The property owners must reimburse the City for a fair share of the cost of the public sewer at the time of connection to the sewer. In addition, each property owner must pay a connection fee, currently \$2,835, and is responsible for disconnecting the existing septic system according to County rules and any other plumbing modifications necessary to connect to the public line. The sewer connections are available should property owners need to connect. Owners will not be required to pay any fee until they connect to the sewer.
- Each owner has been notified of the hearing by mail. The notice, mailing list and additional details are included in the City Engineer's Report attached as Exhibit A to the proposed resolution.

- If Council approves this request to finalize the Reimbursement District, owners within the district will be notified that the sewer is available for connection.

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## OTHER ALTERNATIVES CONSIDERED

None.

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## CITY COUNCIL GOALS

The proposed Reimbursement District meets Goal No. 1, Updating the Comprehensive Plan, by providing developed areas with septic systems sewer service as required by the plan.

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## ATTACHMENT LIST

Attachment 1- Proposed Resolution  
Exhibit A, City Engineer's Report  
Exhibit B, Map  
Attachment 2- Resolution No. 07-06 with Exhibits A, B (7 pages)  
Attachment 3- Vicinity Map  
Attachment 4- Map of Reimbursement District No. 1  
Attachment 5- Notice to Owners  
Attachment 6- Mailing List  
Attachment 7- Resolution No. 01-46  
Attachment 8- Resolution No. 03-55

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## FISCAL NOTES

The final actual cost of the reimbursement district project is \$182,039. This amount includes the final cost of construction, \$160,387, plus \$21,652 for administration and engineering as defined in TMC 13.09.040(1).

The project was originally estimated to have a construction cost of \$130,392. The contract for construction of the sewer was part of a larger construction project awarded by City Council for \$295,557 on February 27, 2007. The portion of the construction contract included in the reimbursement district was awarded for \$155,518, approximately \$25,000 higher than the estimated amount.

The final cost of the entire construction project was \$280,303.50. The final cost of portion of the construction contract included in the reimbursement district was \$4,869 more than the awarded amount of \$155,518. The difference was a result of actual work quantities differing from estimated work. There were no other changes to the contract.

The portion of the final costs assigned to each owner is tabulated in Exhibit A of the attached proposed resolution. The cost to each owner under the Incentive Program established by Resolution No. 01-46 is also shown.

Funding is by unrestricted sanitary sewer funds.

CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
RESOLUTION NO. 07-\_\_\_\_.

A RESOLUTION FINALIZING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 37 (SW 87<sup>TH</sup> COURT AND HALL BOULEVARD) AND AMENDING THE PRELIMINARY CITY ENGINEER'S REPORT CONTAINED IN RESOLUTION NO. 07-06.

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WHEREAS, on January 23, 2007, the City Council approved Resolution No. 07-06 to form Sanitary Sewer District No. 37 to extend sewer service to SW 87<sup>th</sup> Court in accordance with TMC Chapter 13.09; and

WHEREAS, Resolution No. 07-06 included the City Engineer's Report which provided an estimated construction and total project cost; and

WHEREAS, construction of the sewer improvements has been completed, final costs have been determined, and the City Engineer's Report has been revised to include the final costs as required by TMC 13.09.105 (1); and

WHEREAS, the property owners within the district have been notified of an informational hearing in accordance with TMC 13.09.060 and an informational hearing was conducted in accordance with TMC 13.09.105; and

WHEREAS, the City Council has determined that the proposed revisions to the City Engineer's Report, as recommended by the City Engineer, are appropriate.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The Final City Engineer's Report titled "Sanitary Sewer Reimbursement District No. 37", attached hereto as Exhibit A, is hereby approved.

SECTION 2: The City Engineer's Report as presented in Resolution No. 07-06 is hereby amended by the attached Final City Engineer's Report (Exhibit A).

SECTION 3: The City Recorder shall cause a copy of this resolution to be filed in the office of the County Recorder and shall mail a copy of this resolution to all affected property owners at their last known address.

SECTION 4: This resolution is effective immediately upon passage.

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_ 2007.

\_\_\_\_\_  
Mayor - City of Tigard

ATTEST:

\_\_\_\_\_  
City Recorder - City of Tigard



**Exhibit A**  
Final City Engineer's Report  
**Sanitary Sewer Reimbursement District No. 37**  
**(SW 87<sup>th</sup> Court, Hall Boulevard)**

Background

This project was constructed and funded under the City of Tigard Neighborhood Sewer Extension Program (NSEP). Under the program, the City of Tigard installed public sewers to each lot within the project area. At the time the property owner connects to the sewer, the owner must pay a connection fee, currently \$2,835, and reimburse the City for a fair share of the cost of the public sewer. There is no requirement to connect to the sewer or pay any fee until connection is made. In addition, property owners are responsible for disconnecting their existing septic systems according to Washington County rules and for any other modifications necessary to connect to the public sewer.

Project Area - Zone of Benefit

The six lots in this district are the lots that can not be served without sewer line extensions. Serving these six lots required boring across SW Hall Boulevard to an existing sewer in SW Merlyne Court. This boring also provided service to ten other lots along SW McDonald Street as shown on Attachment 3. These ten lots were provided with access to a main line constructed in 1992 through Reimbursement District No. 1. The downstream end of the main line was terminated at SW Hall Boulevard leaving the lots without service. This mainline was connected to the proposed line crossing SW Hall Boulevard and is now functional. The owners will be notified when service becomes available. Reimbursement District No. 1 expired on January 21, 2002, so owners may connect to the sewer without payment of a reimbursement fee. The remaining lots on SW 87<sup>th</sup> Court already are served from an existing line to the rear of the lots and are not included in this district.

The project provided sewer service to a total of six lots within the proposed reimbursement district as shown on Exhibit Map B.

Cost

The contract for construction of the sewer was part of a larger project awarded by City Council for \$295,557 on February 27, 2007. The portion of the project included in the reimbursement district was awarded for \$155,518. The final cost of the entire project is \$280,303.50. The final construction cost of the portion of the project to provide service to the six lots within the district is \$160,387. Engineering and inspection fees amount to \$21,652 (13.5%) as defined in TMC 13.09.040(1). The final total project cost for the district is \$182,039. This is the amount that should be reimbursed to the sanitary sewer fund as properties connect to the sewer and pay their fair share of the total amount. However, the actual amount that each property owner pays is subject to the City's incentive program for early connections.

In addition to sharing the cost of the public sewer line, each property owner will be required to pay a connection and inspection fee, currently \$2,835, upon connection to the public line.

All owners will be responsible for all plumbing costs required for work done on private property.

#### Reimbursement Rate

All properties in the proposed district are zoned R-4.5 but vary in lot size from about fifteen thousand to sixteen thousand square feet as can be seen in the following list of lots. Therefore, it is recommended that the total cost of the project be divided among the properties proportional to the square footage of each property.

Other reimbursement methods include dividing the cost equally among the owners or by the length of frontage of each property. These methods are not recommended because there is no correlation between these methods and the cost of providing service to each lot or the benefit to each lot.

Each property owner's final fair share of the public sewer line is \$1.94367943 per square foot of lot served. Each owner's fair share will be limited to \$6,000, to the extent that it does not exceed \$15,000, for connections completed within three years of City Council approval of the final City Engineer's Report following construction in accordance with Resolution No. 01-46 (attached). In addition to paying for the first \$6,000, owners will remain responsible for paying all costs that exceed \$15,000. Upon request, payment of costs that exceed \$15,000 may be deferred until the lot is developed, as provided by Resolution No. 03-55 (attached).

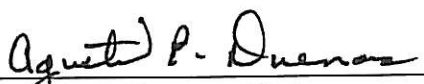
#### Annual Fee Adjustment

TMC 13.09.115 states that an annual percentage rate shall be applied to each property owner's fair share of the sewer line costs on the anniversary date of the reimbursement agreement. The Finance Director has set the annual interest rate at 6.05% as stated in City of Tigard Resolution No. 98-22.

#### Recommendation

It is recommended that a reimbursement district be finalized with an annual fee increase as indicated above and that the reimbursement district continue for fifteen years as provided in Tigard Municipal Code (TMC) 13.09.110(5). Fifteen years after the formation of the reimbursement district, properties connecting to the sewer would no longer be required to pay the reimbursement fee.

Submitted July 31, 2007

  
\_\_\_\_\_  
Agustin P. Duenas, P.E.  
City Engineer

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**87TH COURT**  
**Reimbursement District No. 37**  
*Cost to Property Owners Based on Final Project Cost*  
*July 26, 2007*

|               | OWNER                     | SITE ADDRESS       | TAX LOT ID   | AREA (S.F.)  | AREA (AC)   | FINAL<br>REIMBURSEMENT FEE | AMOUNT TO BE PAID<br>BY OWNER | AMOUNT TO BE PAID<br>BY CITY | AMOUNT THAT<br>CAN BE<br>DEFERRED BY<br>OWNER |
|---------------|---------------------------|--------------------|--------------|--------------|-------------|----------------------------|-------------------------------|------------------------------|---|
| 1             | GARDNER RICHARD A         | 13940 SW 87TH CT   | 2S102DD00809 | 16175.35075  | 0.371       | \$31,440                   | \$22,440                      | \$9,000                      | \$16,440                                      |
| 2             | BOGAN REGINALD & SUSAN HA | 13855 SW HALL      | 2S102DD00801 | 14697.75398  | 0.337       | \$28,568                   | \$19,568                      | \$9,000                      | \$13,568                                      |
| 3             | CURTIS FAMILY TRUST       | 13960 SW 87TH CT   | 2S102DD00808 | 15426.11273  | 0.354       | \$29,983                   | \$20,983                      | \$9,000                      | \$14,983                                      |
| 4             | BOSSHARDT AURTHUR A       | 13915 SW HALL BLVD | 2S102DD00802 | 14976.41384  | 0.344       | \$29,109                   | \$20,109                      | \$9,000                      | \$14,109                                      |
| 5             | CURTIS FAMILY TRUST       | 13905 SW 87TH CT   | 2S102DD00812 | 16443.5323   | 0.377       | \$31,961                   | \$22,961                      | \$9,000                      | \$16,961                                      |
| 6             | CURTIS FAMILY TRUST       | 13935 SW 87TH CT   | 2S102DD00813 | 15937.57553  | 0.366       | \$30,978                   | \$21,978                      | \$9,000                      | \$15,978                                      |
| <b>Totals</b> |                           |                    |              | <b>93657</b> | <b>2.15</b> | <b>\$182,039</b>           | <b>\$128,039</b>              | <b>\$54,000</b>              | <b>\$92,039</b>                               |

The "FINAL REIMBURSEMENT FEE" column shows the reimbursement fee for each lot. There are no requirements to connect to the sewer or pay any fees until the owner decides to connect to the sewer.

In accordance with Resolution No. 01-46, each property owner will be required to pay the first \$6,000 of the final reimbursement fee for connections completed within the first three years of City Council's approval of the final City Engineer's Report following construction. The "AMOUNT TO BE PAID BY CITY" column shows that portion of the reimbursement fee that the owners will not be required to pay if they connect to the sewer during this three year period.

This resolution also requires owners to pay any fair share amount that exceed \$15,000. Consequently, if the final fair share for an owner exceeds \$15,000, the owner would be required to pay \$6,000 plus that amount of the fair share that exceeds \$15,000. Under Resolution No. 03-55, payment of the amount in excess of \$15,000 may be deferred until the owner's lot is developed. This amount is shown in the "AMOUNT THAT CAN BE DEFERRED BY OWNER" column.

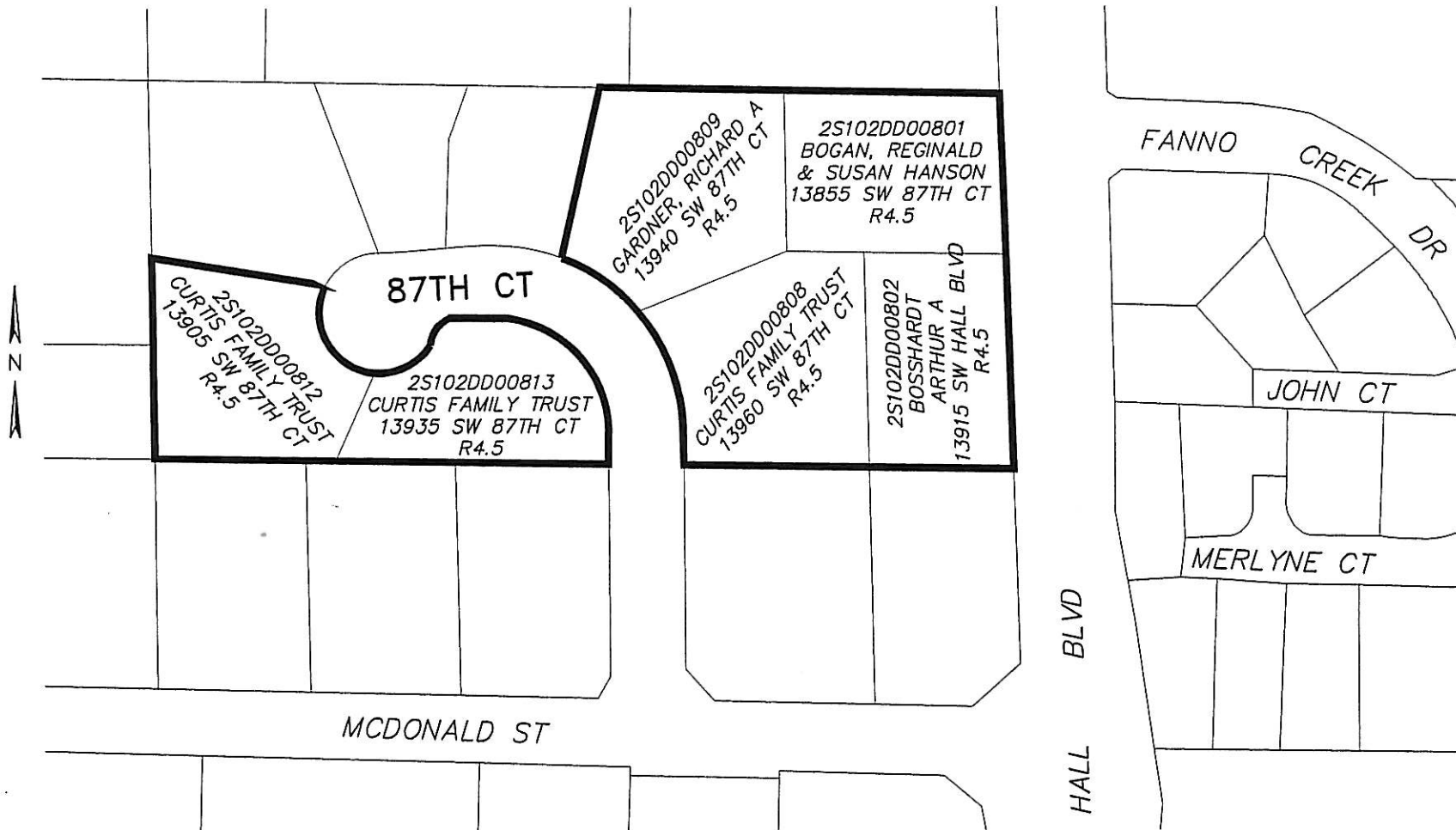
In addition to the reimbursement fee, the owners will also be required to pay a connection fee, currently \$2,835, at the time of connection to the sewer. In addition, property owners are responsible for disconnecting their existing septic system according to Washington County rules and for any other modifications necessary to connect to the public sewer.

**87TH COURT**  
**Reimbursement District No. 37**  
*Cost to Property Owners Based on Final Project Cost*  
7/26/2007  
July 26, 2007

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|                                       |              |
|---------------------------------------|--------------|
| Final Construction Cost               | \$160,387    |
| 13.5% contingency (Admin & Eng)       | \$21,652     |
| total project costs                   | \$182,039    |
| total area to be served (S.F.)        | 93,657       |
| total cost per S.F. to property owner | \$1.94367943 |

87TH COURT  
FY 2006-07 SANITARY SEWER EXTENSION PROGRAM  
REIMBURSEMENT DISTRICT NO. 37  
A PORTION OF THE SW 1/4 SECTION 2 T2S R1W W.M.



**NOTE:**

All properties in the reimbursement district are zoned R4.5

**EXHIBIT B**  
NTS

CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
RESOLUTION NO. 07-06

A RESOLUTION ESTABLISHING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 37 (SW 87<sup>TH</sup> COURT, HALL BOULEVARD)

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WHEREAS, the City has initiated the Neighborhood Sewer Extension Program to extend public sewers and recover costs through Reimbursement Districts in accordance with TMC Chapter 13.09; and

WHEREAS, the property owners of proposed Sanitary Sewer Reimbursement District No. 37 (SW 87<sup>th</sup> Court, Hall Boulevard) have been notified of a public hearing in accordance with TMC 13.09.060 and a public hearing was conducted in accordance with TMC 13.09.050; and

WHEREAS, the City Engineer has submitted a report describing the improvements, the area to be included in the Reimbursement District, the estimated costs, a method for spreading the cost among the parcels within the District, and a recommendation for an annual fee adjustment; and

WHEREAS, the City Council has determined that the formation of a Reimbursement District as recommended by the City Engineer is appropriate.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The City Engineer's report titled "Sanitary Sewer Reimbursement District No. 37," attached hereto as Exhibit A, is hereby approved.

SECTION 2 A Reimbursement District is hereby established in accordance with TMC Chapter 13.09. The District shall be the area shown and described in Exhibit B. The District shall be known as "Sanitary Sewer Reimbursement District No. 37, SW 87<sup>th</sup> Court and Hall Boulevard."

SECTION 3 Payment of the reimbursement fee, as shown in Exhibit A, is a precondition of receiving City permits applicable to development of each parcel within the Reimbursement District as provided for in TMC 13.09.110.

SECTION 4 An annual fee adjustment, at a rate recommended by the Finance Director, shall be applied to the Reimbursement Fee.

SECTION 5 The City Recorder shall cause a copy of this resolution to be filed in the office of the County Recorder and shall mail a copy of this resolution to all affected property owners at their last known address, in accordance with TMC 13.09.090.



SECTION 6: This resolution is effective immediately upon passage.

PASSED: This 23<sup>rd</sup> day of January 2007.

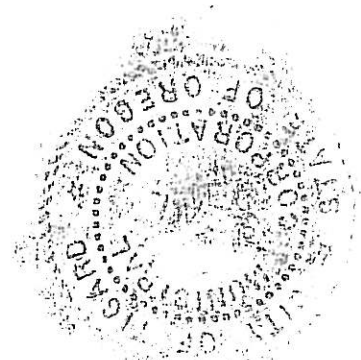
Sydney L. Sherwood

Council President, City of Tigard

ATTEST:

Catherine Wheatley  
City Recorder - City of Tigard

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Certified to be a True Copy of  
Original on File

By: Carol A. Kruger  
Deputy Recorder - City of Tigard

Date: 01/26/07

**Exhibit A**  
City Engineer's Report  
**Sanitary Sewer Reimbursement District No. 37**  
**(SW 87<sup>th</sup> Court, Hall Boulevard)**

Background

This project will be constructed and funded under the City of Tigard Neighborhood Sewer Extension Program (NSEP). Under the program, the City of Tigard would install public sewers to each lot within the project area. At the time the property owner connects to the sewer, the owner would pay a connection fee, currently \$2,735, and reimburse the City for a fair share of the cost of the public sewer. There is no requirement to connect to the sewer or pay any fee until connection is made. In addition, property owners are responsible for disconnecting their existing septic systems according to Washington County rules and for any other modifications necessary to connect to the public sewer.

Project Area - Zone of Benefit

The six lots in this district are the lots that can not be served without sewer line extensions. Serving these six lots will require boring across SW Hall Boulevard to an existing sewer in SW Merlyne Court. This boring will also provide service to ten other lots along SW McDonald Street as shown on Attachment 3. These ten lots were provided with access to a main line constructed in 1992 through Reimbursement District No. 1. The downstream end of the main line was terminated at SW Hall Boulevard leaving the lots without service. This mainline will be connected to the proposed line crossing SW Hall Boulevard and will become functional. The owners will be notified when service becomes available. Reimbursement District No. 1 expired on January 21, 2002, so owners may connect to the sewer without payment of a reimbursement fee. The remaining lots on SW 87<sup>th</sup> Court already are served from an existing line to the rear of the lots and are not included in this district.

The proposed project would provide sewer service to a total of six lots within the proposed reimbursement district as shown on Exhibit Map B.

Cost

The estimated cost for the sanitary sewer construction to provide service to the six lots is \$130,392. Engineering and inspection fees amount to \$17,603 (13.5%) as defined in TMC 13.09.040(1). The estimated total project cost is \$147,994. This is the estimated amount that should be reimbursed to the sanitary sewer fund as properties connect to the sewer and pay their fair share of the total amount. However, the actual amount that each property owner pays is subject to the City's incentive program for early connections.

In addition to sharing the cost of the public sewer line, each property owner will be required to pay a connection and inspection fee, currently \$2,735, upon connection to the public line. All owners will be responsible for all plumbing costs required for work done on private property.

### Reimbursement Rate

All properties in the proposed district are zoned R-4.5 but vary in lot size from about fifteen thousand to sixteen thousand square feet as can be seen in the following list of lots. Therefore, it is recommended that the total cost of the project be divided among the properties proportional to the square footage of each property.

Other reimbursement methods include dividing the cost equally among the owners or by the length of frontage of each property. These methods are not recommended because there is no correlation between these methods and the cost of providing service to each lot or the benefit to each lot.

Each property owner's estimated fair share of the public sewer line is \$1.58017957 per square foot of lot served. Each owner's fair share would be limited to \$6,000, to the extent that it does not exceed \$15,000, for connections completed within three years of City Council approval of the final City Engineer's Report following construction in accordance with Resolution No. 01-46 (attached). In addition to paying for the first \$6,000, owners will remain responsible for paying all actual costs that exceed \$15,000. Upon request, payment of costs that exceed \$15,000 may be deferred until the lot is developed, as provided by Resolution No. 03-55 (attached).

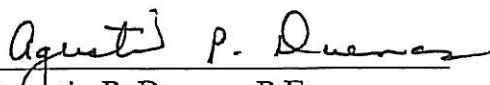
### Annual Fee Adjustment

TMC 13.09.115 states that an annual percentage rate shall be applied to each property owner's fair share of the sewer line costs on the anniversary date of the reimbursement agreement. The Finance Director has set the annual interest rate at 6.05% as stated in City of Tigard Resolution No. 98-22.

### Recommendation

It is recommended that a reimbursement district be formed with an annual fee increase as indicated above and that the reimbursement district continue for fifteen years as provided in Tigard Municipal Code (TMC) 13.09.110(5). Fifteen years after the formation of the reimbursement district, properties connecting to the sewer would no longer be required to pay the reimbursement fee.

Submitted January 9, 2007

  
Agustin P. Duenas, P.E.  
City Engineer

I:\eng\2006-2007 fy cipl\87th ave san sew reimb dist 37\formation\1-23-07 reim dist 37 report ex a.doc

**87TH COURT**  
**Reimbursement District No. 37**  
*Estimated Cost to Property Owners*  
*September 1, 2006*

|   | OWNER                    | SITE ADDRESS       | TAX LOT ID    | AREA (S.F.)  | AREA (AC)   | ESTIMATED<br>REIMBURSEMENT<br>FEE | AMOUNT TO BE PAID<br>BY OWNER | AMOUNT TO BE PAID<br>BY CITY | AMOUNT THAT<br>CAN BE DEFERRED<br>BY OWNER |
|---|--------------------------|--------------------|---------------|--------------|-------------|-----------------------------------|-------------------------------|------------------------------|--|
| 1 | GARDNER RICHARD A        | 13940 SW 87TH CT   | 2S102DD00809  | 16175.35075  | 0.371       | \$25,560                          | \$16,560                      | \$9,000                      | \$10,560                                   |
| 2 | BOGAN REGINALD & SUSAN H | 13855 SW HALL      | 2S102DD00801  | 14697.75398  | 0.337       | \$23,225                          | \$14,225                      | \$9,000                      | \$8,225                                    |
| 3 | CURTIS FAMILY TRUST      | 13960 SW 87TH CT   | 2S102DD00808  | 15426.11273  | 0.354       | \$24,376                          | \$15,376                      | \$9,000                      | \$9,376                                    |
| 4 | BOSSHARDT AURTHUR A      | 13915 SW HALL BLVD | 2S102DD00802  | 14976.41384  | 0.344       | \$23,665                          | \$14,665                      | \$9,000                      | \$8,665                                    |
| 5 | CURTIS FAMILY TRUST      | 13905 SW 87TH CT   | 2S102DD00812  | 16443.5323   | 0.377       | \$25,984                          | \$16,984                      | \$9,000                      | \$10,984                                   |
| 6 | CURTIS FAMILY TRUST      | 13935 SW 87TH CT   | 2S102DD00813  | 15937.57553  | 0.366       | \$25,184                          | \$16,184                      | \$9,000                      | \$10,184                                   |
|   |                          |                    | <b>Totals</b> | <b>93657</b> | <b>2.15</b> | <b>\$147,994</b>                  | <b>\$93,994</b>               | <b>\$54,000</b>              | <b>\$57,994</b>                            |

**87TH COURT**  
**Reimbursement District No. 37**

*Estimated Cost to Property Owners*

*Summary*

*September 1, 2006*

|                                       |                     |
|---------------------------------------|---------------------|
| Estimated Construction Cost           | <b>\$113,384</b>    |
| 15% contingency (construction)        | \$17,008            |
| Estimated construction subtotal       | \$130,392           |
| 13.5% contingency (Admin & Eng)       | \$17,603            |
| total project costs                   | <b>\$147,994</b>    |
| total area to be served (S.F.)        | 93,657              |
| total cost per S.F. to property owner | <b>\$1.58017957</b> |

The "estimated cost to property owner" column shows the estimated reimbursement fee each owner is required to pay to connect to the sewer. There are no requirements to connect to the sewer or pay any fees until the owner decides to connect to the sewer. The final reimbursement fee will be determined once construction is complete and final costs are determined.

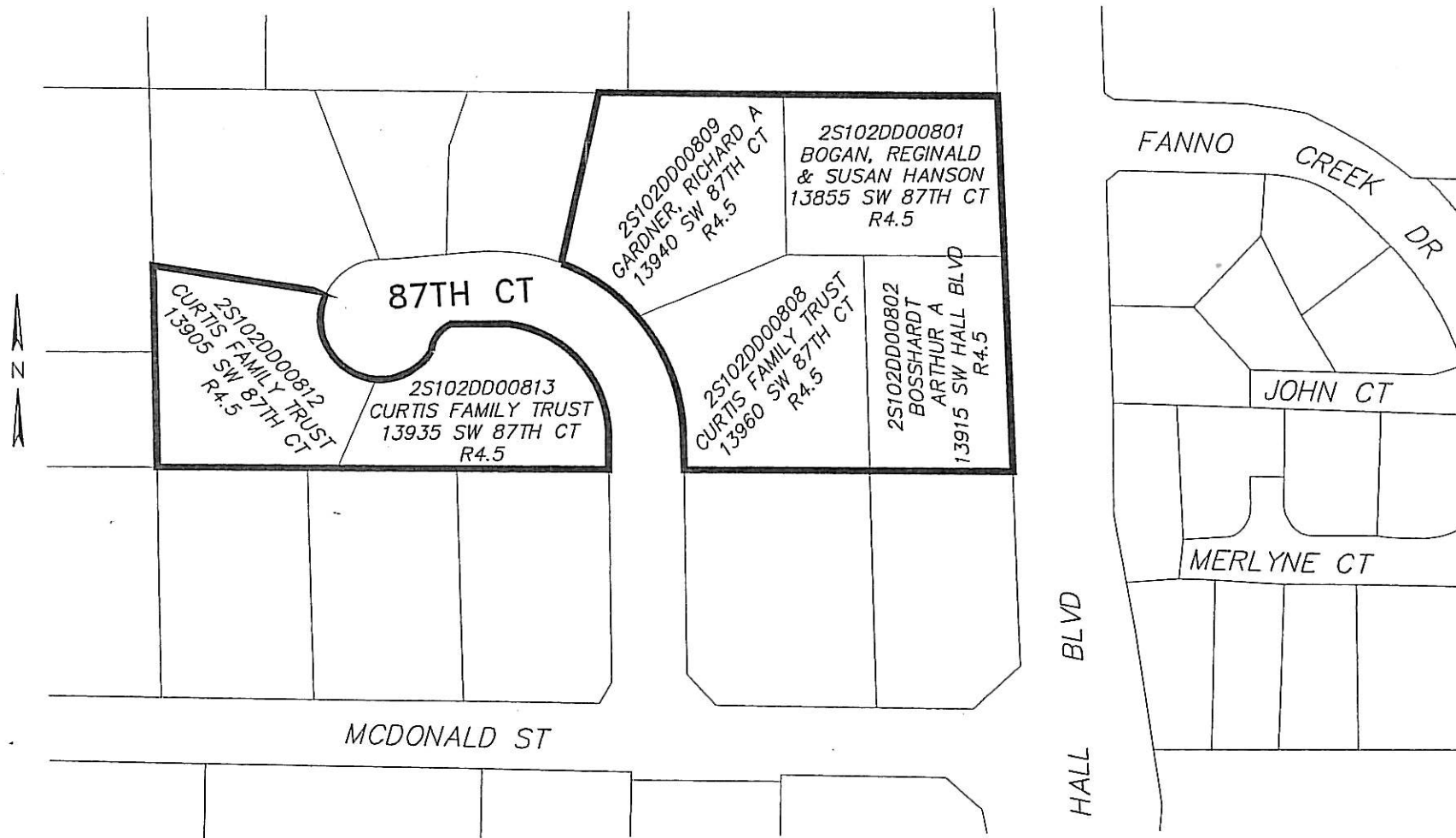
The amount each property owner will be required to pay will be limited to \$6,000 for connections completed within three years of City Council approval of the final City Engineer's Report following construction, in accordance with Resolution 01-46. This amount is shown in the "paid by owner" column. The remaining portion of the reimbursement fee that the owner will not be required to pay during this three year period is shown in the "paid by city" column.

Please note that this resolution also requires the owner to pay any fair share amounts that exceed \$15,000. Consequently, if the final fair share for an owner exceeds \$15,000, the owner would be required to pay \$6,000 plus the amount the fair share exceeds \$15,000. Under Resolution 03-55, payment of the amount in excess of \$15,000 may be deferred until the owner's lot is developed.

The owner would also be required to pay a connection fee, currently \$2,735, at the time of connection to the sewer. In addition, property owners are responsible for disconnecting their existing septic system according to Washington County rules and for any other modifications necessary to connect to the public sewer.

These costs are as presented during the Neighborhood Meeting and will be revised once construction is completed and final costs are determined.

87TH COURT  
FY 2006-07 SANITARY SEWER EXTENSION PROGRAM  
REIMBURSEMENT DISTRICT NO. 37  
A PORTION OF THE SW 1/4 SECTION 2 T2S R1W W.M.



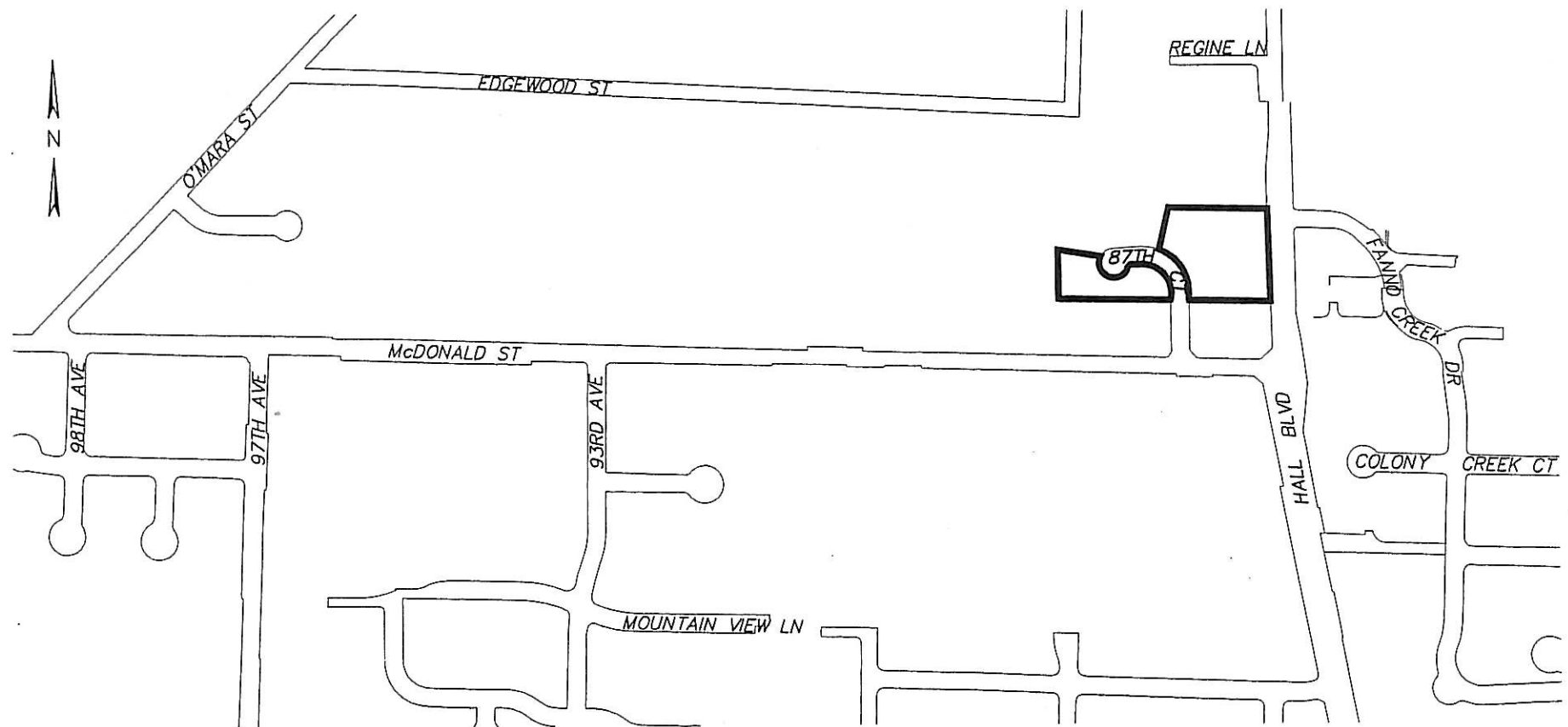
**NOTE:**

All properties in the reimbursement district are zoned R4.5

**EXHIBIT B**  
NTS



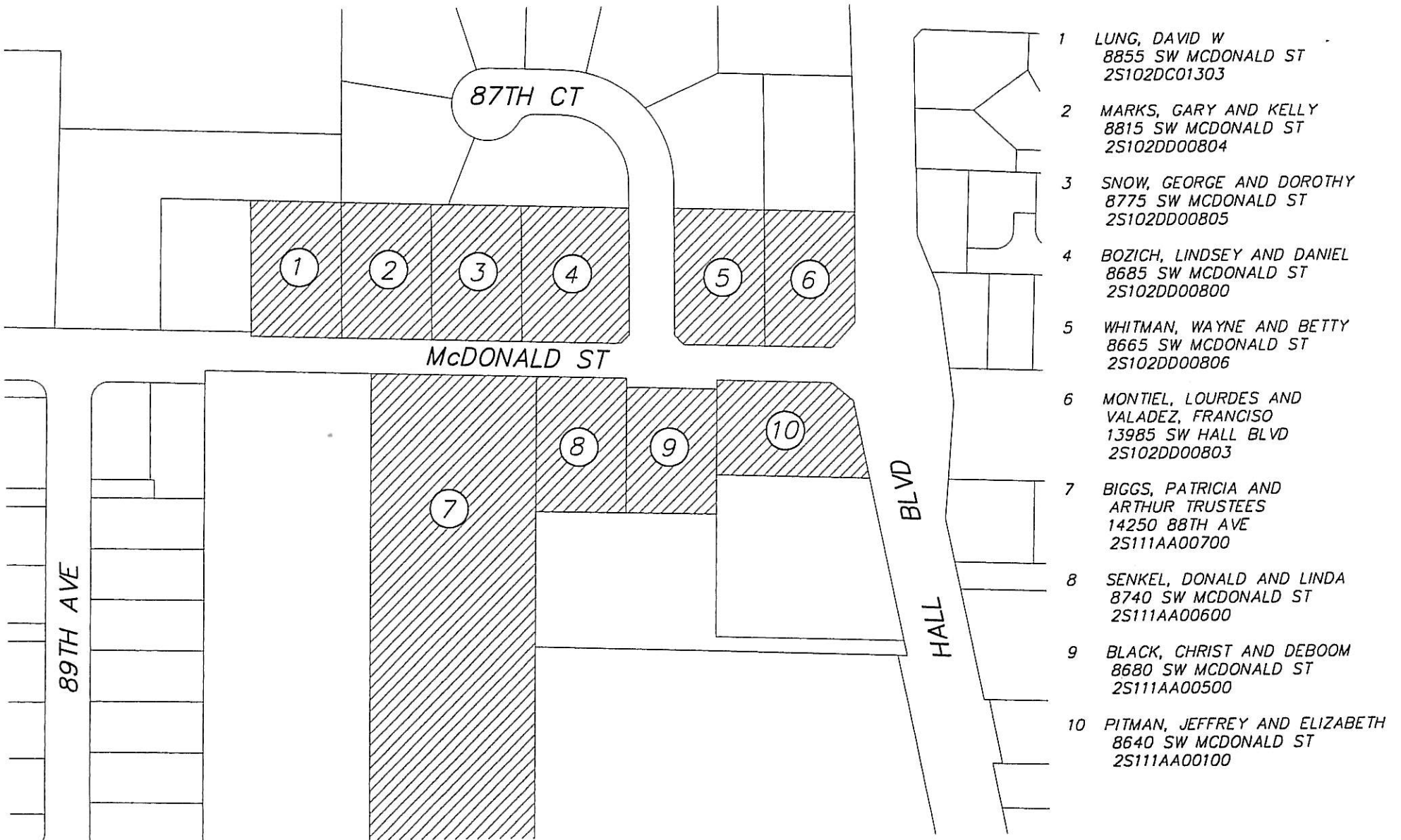
87TH COURT  
FY 2006-07 SANITARY SEWER EXTENSION PROGRAM  
REIMBURSEMENT DISTRICT NO. 37  
A PORTION OF THE SW 1/4 SECTION 2 T2S R1W W.M.



VICINITY MAP  
NTS

# REIMBURSEMENT DISTRICT NO. 1

## LOTS TO BE PROVIDED WITH SERVICE



July 30, 2007

**NOTICE**  
**of**  
**PUBLIC HEARING**  
**Tuesday, August 14, 2007**  
**7:30 PM**  
**Tigard Civic Center**  
**Town Hall**

The following will be considered by the Tigard City Council on August 14, 2007, at 7:30 pm at the Tigard Civic Center - Town Hall, 13125 SW Hall Blvd., Tigard, Oregon. Both public oral and written testimony is invited. The public hearing on this matter will be conducted as required by Section 13.09.105 of the Tigard Municipal Code. Further information may be obtained from the Capital Construction and Transportation Division at 13125 SW Hall Blvd., Tigard, OR 97223, or by calling 503 718-2468.

**INFORMATIONAL PUBLIC HEARING:**

**FINALIZATION OF SANITARY SEWER REIMBURSEMENT DISTRICT NO. 37** (SW 87<sup>th</sup> Court and Hall Boulevard). The Tigard City Council will conduct a public hearing to hear testimony on the finalization of Sanitary Sewer Reimbursement District No. 37 formed to install sewers in SW 87<sup>th</sup> Court and Hall Boulevard.

Each property owner's recommended fair share of the public sewer line is \$1.94368 per square foot of the lot served as shown on the enclosed list. For owners with a fair share amount of \$15,000 or less, the owner's fair share would be limited to \$6,000 for connections completed within three years of City Council approval of the final City Engineer's Report following construction in accordance with Resolution No. 01- 46. In addition to paying for the first \$6,000, owners will remain responsible for paying actual costs that exceed \$15,000. Upon request, payment of costs that exceed \$15,000 may be deferred until the lot is developed as provided by Resolution No. 03-55.

Impression antibourrage et à séchage rapide  
Utilisez le gabarit 5961<sup>TM</sup>



www.avery.com  
1-800-GO-AVERY



A Attachment 6 :

2S102DD00809  
GARDNER RICHARD A  
13940 SW 87TH CT  
TIGARD OR 97223

2S102DD00801  
BOGAN REGINALD & SUSAN HANSON  
PO BOX 230732  
TIGARD OR 97281

2S102DD00808, 2S102DD00812, 2S102DD00813  
CURTIS FAMILY TRUST  
15285 SW ALDERBROOK CT  
TIGARD OR 97224

2S102DD00802  
BOSSHARDT AURTHER A  
13915 SW HALL BLVD  
TIGARD OR 97223

## CITY OF TIGARD, OREGON

RESOLUTION NO. 01-46**A RESOLUTION REPEALING RESOLUTION NO. 98-51 AND ESTABLISHING A REVISED AND ENHANCED NEIGHBORHOOD SEWER REIMBURSEMENT DISTRICT INCENTIVE PROGRAM**

---

**WHEREAS**, the City Council has initiated the Neighborhood Sewer Extension Program to extend public sewers through Reimbursement Districts in accordance with TMC Chapter 13.09; and

**WHEREAS**, on October 13, 1998, the City Council established The Neighborhood Sewer Reimbursement District Incentive Program through Resolution No. 98-51 to encourage owners to connect to public sewer. The program was offered for a two-year period after which the program would be evaluated for continuation; and

**WHEREAS**, on September 26, 2000, the City Council extended The Neighborhood Sewer Reimbursement District Incentive Program an additional two years through Resolution No. 00-60; and

**WHEREAS**, City Council finds that residential areas that remain without sewer service should be provided with service within five years; and

**WHEREAS**, Council has directed that additional incentives should be made available to encourage owners to promptly connect to sewers once service is available and that owners who have paid for service provided by previously established districts of the Neighborhood Sewer Extension Program should receive the benefits of the additional incentives.

**NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:**

**SECTION 1:** Resolution No. 98-51 establishing the Neighborhood Sewer Reimbursement District Incentive Program is hereby repealed.

**SECTION 2:** A revised incentive program is hereby established for the Neighborhood Sewer Extension Program. This incentive program shall apply to sewer connections provided through the sewer reimbursement districts shown on the attached Table 1 or established thereafter. All connections qualifying under this program must be completed within **three years** after Council approval of the final City Engineer's Report following a public hearing conducted in accordance with TMC Section 13.09.105 or by **two years** from the date this resolution is passed, which ever is later, as shown on the attached Table 1.

**SECTION 3:** To the extent that the reimbursement fee determined in accordance with Section 13.09.040 does not exceed \$15,000, the amount to be reimbursed by an owner of a lot zoned single family residential shall not exceed \$6,000 per connection, provided that the lot owner complies with the provisions of Section 2. Any amount over \$15,000 shall be reimbursed by the owner. This applies only to the reimbursement fee for the sewer installation and not to the connection fee; which is still payable upon application for



sewer connection.

**SECTION 4:** The City Engineer's Report required by TMC Chapter 13.09 shall apply the provisions of this incentive program. Residential lot owners who do not connect to sewer in accordance with Section 2 shall pay the full reimbursement amount as determined by the final City Engineer's Report.

**SECTION 5:** Any person who has paid a reimbursement fee in excess of the fee required herein is entitled to reimbursement from the City. The amounts to be reimbursed and the persons to be paid shall be determined by the Finance Director and approved by the City Manager. There shall be a full explanation of any circumstances that require payment to any person who is not an original payer. The Finance Director shall make payment to all persons entitled to the refund no later than August 31, 2001.

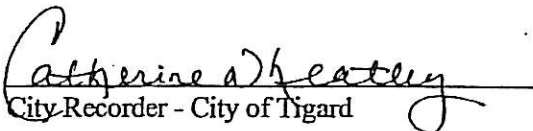
**SECTION 6:** The Sanitary Sewer Fund, which is the funding source for the Neighborhood Sewer Reimbursement District Program, shall provide the funding for the installation costs over \$6,000 up to a maximum of \$15,000 per connection.

**EFFECTIVE DATE:** July 10, 2001

**PASSED:** This 10<sup>th</sup> day of July 2001.

  
\_\_\_\_\_  
Mayor - City of Tigard

**ATTEST:**

  
\_\_\_\_\_  
City Recorder - City of Tigard

I:\Citywide\Res\Resolution Revising the Neighborhood Sewer Incentive Program

**TABLE 1**  
**Reimbursement Districts with Refunds Available**

| DISTRICT                          | FEE PER LOT | REIMBURSEMENT AVAILABLE                     | INCENTIVE PERIOD ENDS                 |
|-----------------------------------|-------------|---|---------------------------------------|
| TIGARD ST.No.8                    | 5,193       | No reimbursement available                  |                                       |
| FAIRHAVEN ST/WYNo.9               | 4,506       | No reimbursement available                  |                                       |
| HILLVIEW ST No.11                 | 8,000       |   | July 11, 2003                         |
| 106 <sup>TH</sup> & JOHNSON No.12 | 5,598       | No reimbursement available                  |                                       |
| 100 <sup>TH</sup> & INEZ No.13    | 8,000       |   | July 11,2003                          |
| WALNUT & TIEDEMAN No.14           | 8,000       |   | July 11,2003                          |
| BEVELAND&HERMOSA No.15            | 5,036       | No reimbursement available                  |                                       |
| DELMONTE No.16                    | 8,000       |   | July 11,2003                          |
| O'MARA No.17                      | 8,000       |   | July 11,2003                          |
| WALNUT & 121 <sup>ST</sup> No.18  | -           | Amount to be reimbursed will be             | Three years from service availability |
| ROSE VISTA No.20                  | -           | determined once final costs are determined. |                                       |

\* Currently being constructed

**CITY OF TIGARD, OREGON**

**RESOLUTION NO. 03- 55**

**A RESOLUTION PROVIDING ADDITIONAL INCENTIVES TO THE NEIGHBORHOOD SEWER REIMBURSEMENT DISTRICT INCENTIVE PROGRAM (RESOLUTION NO. 01 – 46).**

---

**WHEREAS**, the City Council has initiated the Neighborhood Sewer Extension Program to extend public sewers through Reimbursement Districts in accordance with TMC Chapter 13.09; and

**WHEREAS**, on July 10, 2001, the City Council established the Revised and Enhanced Neighborhood Sewer Reimbursement District Incentive Program through Resolution No. 01-46 to encourage owners to connect to public sewer within three-years following construction of sewers; and

**WHEREAS**, Council has directed that additional incentives should be made available to encourage owners of large lots to promptly connect to sewers once service is available.

**NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:**

- SECTION 1:** In addition to the incentives provided by Resolution No. 01-46, any person whose reimbursement fee exceeds \$15,000 and wishes to connect a single family home or duplex to a sewer constructed through a reimbursement district may defer payment of the portion of the reimbursement fee that exceeds \$15,000, as required by Section 3 of Resolution No. 01-46, until the lot is partitioned or otherwise developed in accordance with a land use permit. The land use permit shall not be issued until payment of the deferred amount is made. The Annual Fee Adjustment required by TMC Section 13.09.115 shall not apply to payment of this deferred amount.
- SECTION 2:** Lots that qualify under Section 1, within reimbursement districts that have exceeded the three-year period for connection, and have not connected to sewer can connect the existing structure, pay a reimbursement fee of \$6,000, and defer payment of the portion of the reimbursement fee that exceeds \$15,000 if connection to the sewer is completed within one year after the effective date of this resolution.
- SECTION 3:** Vacant lots improved with a single family home or duplex during the term of the reimbursement district shall qualify for the provisions of Resolution No. 01-46, pay \$6,000 if the fee exceeds that amount, and may defer payment of the portion of the reimbursement fee that exceeds \$15,000 as provided by Section 1.
- SECTION 4:** Vacant lots that are partitioned, subdivided, or otherwise developed during the life of the reimbursement district shall qualify for the provisions of Resolution No. 01-46, shall pay a reimbursement fee of \$6,000, and shall pay any amount due over \$15,000 at the time of development. The Annual Fee Adjustment required by TMC Section 13.09.115 shall not apply to payments made under this section.
- SECTION 5:** The owner of any lot for which deferred payment is requested must enter into an agreement with the City, on a form prepared by the City Engineer, acknowledging the

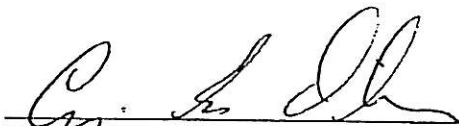
owner's and owner's successors obligation to pay the deferred amount as described in Section 1. The City Recorder shall cause the agreement to be filed in the office of the County Recorder to provide notice to potential purchasers of the lot. The recording will not create a lien. Failure to make such a recording shall not affect the obligation to pay the deferred amount.

SECTION 6: Any person who qualifies under Section 1 and has paid a reimbursement fee for the portion of the reimbursement fee in excess of \$15,000 is entitled to reimbursement for that amount from the City upon request. The amounts to be reimbursed and the persons to be paid shall be determined by the Finance Director and approved by the City Manager. There shall be a full explanation of any circumstances that require payment to any person who is not an original payer. Any person requesting a refund must sign an agreement similar to that described in Section 5 acknowledging the obligation to pay the refunded amount upon partitioning or developing the lot.

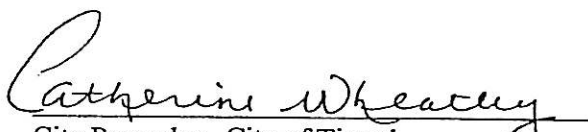
SECTION 7: The Sanitary Sewer Fund continues to remain the funding source for the Neighborhood Sewer Reimbursement District Program and shall provide the funding for the installation costs over \$6,000 up to a maximum of \$15,000 per connection and for any deferred payment permitted by this resolution.

SECTION 8: This resolution is effective immediately upon passage.

PASSED: This 14<sup>th</sup> day of October 2003.

  
\_\_\_\_\_  
~~Mayor - City of Tigard~~  
Craig E. Dirksen, Council President

ATTEST:

  
\_\_\_\_\_  
City Recorder - City of Tigard

L:\eng\reg\reimbursement districts\revisions res 01-46 aug 20 03\oct 14 03 council\10-14-03 addition to res 1-46 res.doc

Agenda Item #

Meeting Date

August 14, 2007

## COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Public Hearing – Consider Requirement that All Chief Petitioners for a City of Tigard Initiative, Referendum or Recall Process be Electors of the City of Tigard

Prepared By: Cathy Wheatley *Cathy* Dept Head Approval: *cl* City Mgr Approval: *cl*

### ISSUE BEFORE THE COUNCIL

Conduct a public hearing to consider a requirement that all Chief Petitioners for a City of Tigard initiative, referendum, or recall process be electors of the City of Tigard.

### STAFF RECOMMENDATION

Conduct public hearing and direct staff to prepare an ordinance for Council consideration on September 11, 2007, if Council supports and amendment to the Tigard Municipal Code.

### KEY FACTS AND INFORMATION SUMMARY

- Mayor Dirksen asked staff to research and propose an amendment to the Tigard Municipal Code, which would require chief petitioners of a City of Tigard initiative, referendum or recall to be residents or City electors of the City of Tigard.
- Staff asked other Oregon cities if there were any similar local legislation adopted recently. The City of Central Point and the City of Sherwood responded and provided the wording they each adopted in 2004:
  - Central Point: *No petition for initiative or referendum filed with the city shall be valid unless all chief petitioners are residents of the city at the time of filing and remain residents of the city through the entire initiative and referendum process, including the election.*
  - Sherwood: *Before circulating a petition proposing an initiative for city legislation, the chief petitioners must file a prospective petition with the recorder. The recorder will provide the form showing: 1. The signatures, printed names and mailing addresses of at least one and not more than three chief petitioners, all of whom must be city electors...*
- The Central Point option requiring chief petitioners to be City residents is less restrictive than requiring the chief petitioners to be City electors. Council, if it decides to amend the Tigard Municipal Code, should indicate which option it would prefer.
- Council discussed this matter during its June 26, 2007 study session. Highlights of this discussion are attached (Attachment 1). At the conclusion of this discussion the City Council members expressed support for requiring that Chief Petitioners be City of Tigard electors.
- Council determined it would conduct a public hearing on the proposed Tigard Municipal Code amendment.

### OTHER ALTERNATIVES CONSIDERED

Propose changes to the draft ordinance.



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## CITY COUNCIL GOALS

N/A

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## ATTACHMENT LIST

1. Draft summary of discussion at the June 26, 2007, City Council Study Session regarding consideration of restrictions for Chief Petitioners for a City of Tigard measure.
2. Proposed ordinance.

---

## FISCAL NOTES

N/A

**Summary of Tigard City Council discussion held on June 26, 2007  
regarding a possible amendment of the Tigard Municipal Code requiring  
Chief Petitioners of an Initiative, Referendum, or Recall Petition to  
be residents or electors of the City of Tigard:**

- 
- Some Council support expressed that Chief Petitioners should be at least City residents since such petitioners are proposing to “change the fabric of the city.”
  - Some Council support expressed to be more restrictive and require Chief Petitioners to be electors (registered voters) of the City of Tigard.
  - Councilor Wilson pointed out that people who don’t live in the City of Tigard, i.e., business owners, do have a stake in laws that are made that govern them. Mayor Dirksen offered that city business owners could be included as he agreed they do have an interest in the City. Councilor Wilson said that ultimately it would be city electors who vote yes or no on a proposal. Councilor Buehner referred to outside interests in statewide petition efforts who come to Oregon to sponsor petitions that cost taxpayer dollars to place these measures on the ballot. For petitions filed for elections other than the primary or general election of even-numbered years, the City must pay for the election. Councilor Wilson acknowledged there was merit to the argument for placing restrictions on Chief Petitioners because of the financial impact.
  - Council discussed the possibility of allowing Chief Petitioners who are Tigard business owners, but are not residents or electors of the city. City Attorney Ramis cautioned that he has not seen any case law that would allow such a distinction. Councilor Buehner acknowledged this could be too complicated to implement. One suggestion was to include residents and property owners. After some discussion, City Attorney Ramis noted that the concern is “if we are just doing registered voters...I think we probably can. Once we create a situation where people who live outside the City but own property can participate but someone who lives inside the City can’t participate, we open up an argument.”
  - Councilor Sherwood noted the only people who can vote on measures on ballots by petitioner will be the city’s electors. She said she would prefer to see the Chief Petitioners limited to “electors.” Mayor Dirksen said someone who was not an elector could find a sympathetic city elector to sponsor a measure. Councilor Wilson said he could support this because of the cost of the election borne by the City of Tigard. Council consensus was to support a proposed ordinance providing that Chief Petitioners shall be city electors.
  - Council decided it would like to conduct a public hearing on the proposed amendment to the Tigard Municipal Code requiring that Chief Petitioners for an initiative, referendum or recall petition be City of Tigard electors.

CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
ORDINANCE NO. 07-\_\_\_\_\_

AN ORDINANCE AMENDING THE TIGARD MUNICIPAL CODE BY ADDING SECTION 1.12.060 REQUIRING CHIEF PETITIONERS FOR A CITY OF TIGARD INITIATIVE, REFERENDUM OR RECALL PETITION BE ELECTORS OF THE CITY OF TIGARD

---

WHEREAS, a public hearing was conducted on August 14, 2007 on the proposed amendment to the Tigard Municipal Code requiring Chief Petitioners of a City of Tigard initiative, referendum, or recall petition be electors of the City of Tigard; and

WHEREAS, the Tigard City Council has determined that it is in the best interests of the citizens of the City of Tigard to require that Chief Petitioners for measures to be placed before City of Tigard voters be registered voters within the City of Tigard.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The Initiative and Referendum Chapter 1.12 of the Tigard Municipal Code is hereby amended to add Section 1.12.060 to read as follows:

**1.12.060 Chief Petitioners for Initiative, Referendum, or Recall Petitions to be Electors of the City of Tigard.**

No petition for initiative, referendum, or recall filed with the city shall be valid unless all chief petitioners are electors of the city at the time of filing and remain electors of the city through the entire initiative, referendum, or recall process, including the election.

SECTION 2: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By \_\_\_\_\_ vote of all Council members present after being read by number and title only, this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

---

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Craig Dirksen, Mayor

Approved as to form:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

Agenda Item #

Meeting Date

August 14, 2007

## LOCAL CONTRACT REVIEW BOARD AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Conduct a Public Hearing to Consider a Resolution Granting an Exemption from Competitive Bidding under Public Contracting Rule 10.110 for the Construction of the Hiteon Creek Riparian Enhancement Project and Awarding a Contract for this Project to Developer Douglas A. Fry

Prepared By: Dennis Koellermeier

Dept Head Approval:



City Mgr Approval:



### ISSUE BEFORE THE LOCAL CONTRACT REVIEW BOARD

Shall the Local Contract Review Board grant an exemption from competitive bidding under Public Contracting Rule 10.110 for construction of the Hiteon Creek Riparian Enhancement project and award a contract for this project to developer Douglas A. Fry?

### STAFF RECOMMENDATION

Grant the exemption and award the contract.

### KEY FACTS AND INFORMATION SUMMARY

This exemption is being requested in order to allow the City to contract with Tigard Business Center developer, Douglas A. Fry, for the construction of the Hiteon Creek Riparian Enhancement project. The City had planned to construct this project in its entirety, but learned that the developer needed to perform wetland and stream mitigation as a result of his development at another Tigard location. The scope of the developer's mitigation was such that his work could easily be combined with the City's efforts on the Hiteon Creek project. By merging the City's project with Mr. Fry's wetland and stream mitigation, two things could be accomplished: Mr. Fry can meet his mitigation obligations and the City can reduce its cost to construct the Hiteon Creek project.

Public contracting rules require the following information be provided:

#### ■ Nature of the Project

The Hiteon Creek Riparian Enhancement project is a stream restoration project planned by the City of Tigard to meet culvert removal, outfall retrofitting, and community tree planting goals outlined in the regional Healthy Streams Plan.

The scope of the project includes:

- |   |  |
|---|--|
| - Restoration of 4.15 acres of vegetated corridor                             | - Restoration of 697 feet of degraded stream channel           |
| - Restoration of .41 acres of Hiteon Creek wetland                            | - Removal of two culverts                                      |
| - Retrofitting and treatment of stormwater discharging off Scholls Ferry Road | - Construction of a boardwalk and bridge for pedestrian access |

#### ■ Estimated Project Cost

The total estimated cost for the project is \$176,354.



▪ **Description of Cost Savings Anticipated by Exemption and Reasons for Exemption from Formal Competitive Bidding Process**

The total estimated savings resulting from exemption would be \$52,334. The contract with the developer would allow approximately 30 percent of the Hiteon Creek restoration site to be used as stream and wetland mitigation for the proposed Tigard Business Center located at the corner of 72nd Avenue and Dartmouth Street.

Construction of the stream restoration project could best be accomplished as one contiguous project. This will ensure that the grading and replanting function properly over the entire site. Since Mr. Fry is obligated to make sure that standards for mitigation are met, it makes sense for him to have control of the project construction.

Under Tigard Public Contracting Rule 10.110, the Local Contract Review Board may exempt a particular contract from formal competitive process requirements. Staff requests that the Local Contract Review Board grant an exemption in this instance, as this would allow the City to contract directly with Mr. Fry and would result in project cost savings.

▪ **Alternative Contracting and Purchasing Practices to Be Employed**

If an exemption is granted under Tigard Public Contracting rule 10.110, the City will contract directly with Mr. Fry to construct the Hiteon Creek Riparian Enhancement project. The contract will clearly state the contractor must follow Bureau of Labor and Industries Prevailing Wage Rate Law requirements, requisite for public improvement projects paid for with City funds.

▪ **Estimated Due Date Necessary to Let the Contract**

Permits for the project require construction within Oregon Division of State Lands and Corps of Engineers fish window restrictions for in-water construction. The allowed construction time period extends from July 1 to September 30, 2007. For this reason, the contract must be let no later than September 1, to ensure that in-stream work is completed before the deadline. Construction of this project is expected to take 14 to 20 days.

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**OTHER ALTERNATIVES CONSIDERED**

Tigard could construct the Hiteon Creek Riparian Enhancement Project and bear all costs associated with the project.

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**CITY COUNCIL GOALS**

None

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**ATTACHMENT LIST**

1. Resolution  
Memorandum of Findings
2. Vicinity Map

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**FISCAL NOTES**

Funding in the amount of \$185,000 was appropriated in the FY '07/'08 budget. The estimated project cost is \$176,354. Savings associated with the exemption are estimated to be \$52,334, lowering the City's final cost to approximately \$124,020.

CITY OF TIGARD, OREGON  
LOCAL CONTRACT REVIEW BOARD  
RESOLUTION NO. 07-\_\_\_\_\_

A RESOLUTION TO APPROVE FINDINGS FOR AN EXEMPTION FROM COMPETITIVE BIDDING UNDER PUBLIC CONTRACTING RULE 10.110 FOR THE HITEON CREEK RIPARIAN ENHANCEMENT PROJECT AND AWARD A CONTRACT FOR THIS PROJECT TO DEVELOPER DOUGLAS A. FRY

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WHEREAS, on June 12, 2007 the City Council approved the FY '07/'08 budget which allocated \$185,000 to construct the Hiteon Creek Riparian Enhancement project; and

WHEREAS, the City has the opportunity to work with a developer on the project and would realize cost savings through such a partnership; and

WHEREAS, under Tigard Public Contracting Rule 10.110, the Local Contract Review Board may exempt a particular contract from formal competitive process requirements; and

WHEREAS, an exemption for this particular contract would allow the City to directly contract with the developer and realize the cost savings; and

WHEREAS, on August 14, 2007, the Local Contract Review Board, conducted a hearing to take comments on draft findings as required by Public Contracting rule 10.110; and

WHEREAS, the Local Contract Review Board finds that the construction of the Hiteon Creek Riparian Enhancement Project may be best accomplished through a direct contract with the Tigard Business Center developer Douglas A. Fry.

NOW, THEREFORE, BE IT RESOLVED by the Tigard Local Contract Review Board that:

SECTION 1: The findings shown in Attachment A are hereby adopted.

SECTION 2: An exemption is granted from competitive bidding under Public Contract Rule 10.110 for the Hiteon Creek Riparian Enhancement project and the project will be constructed through a direct contract with Tigard Business Center developer, Douglas A. Fry.

SECTION 3: This resolution is effective immediately upon passage.

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_ 2007.

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Local Contract Review Board Chair - City of Tigard

ATTEST:

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Local Contract Review Board Recorder - City of Tigard

## CITY OF TIGARD

## HITEON CREEK RIPARIAN ENHANCEMENT PROJECT

**FINDINGS FOR AN INDIVIDUAL EXEMPTION  
FROM THE FORMAL COMPETITIVE BID PROCESS**

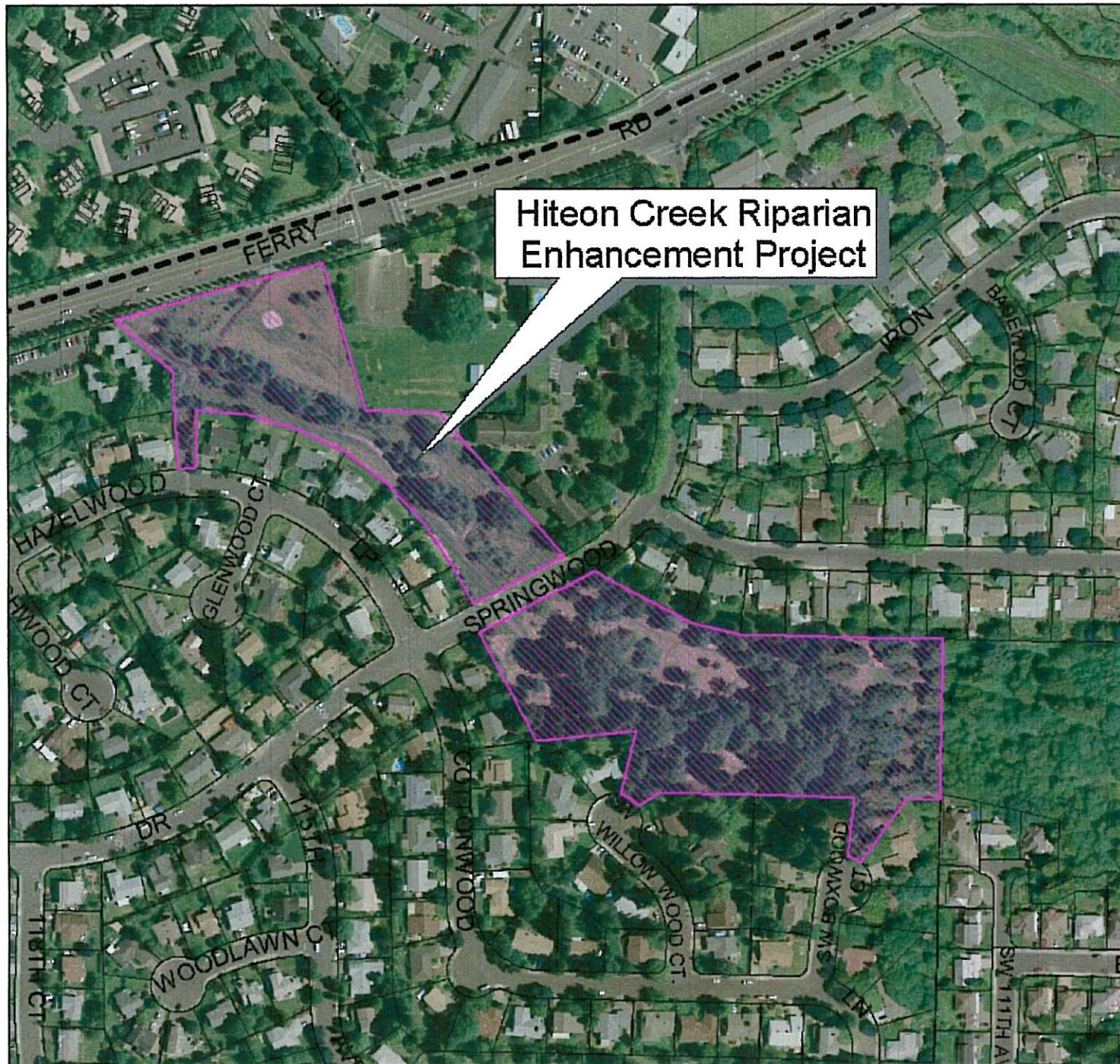
The Hiteon Creek Riparian Enhancement Project is proposed for construction through a contract with Tigard Business Center developer, Douglas A. Fry. The following are draft findings for an exemption from the competitive bidding requirement in accordance with Public Contracting Rule 10.110.

**Finding:** The awarding of a contract pursuant to the exemption will result in substantial cost savings to the City.

**Discussion:** Substantial cost savings are expected through adoption of the contract with Mr. Fry. The following are the reasons supporting the expectation.

- By allowing the Tigard Business Center developer to use portions of the restoration site for wetland and stream mitigation, the developer will finance approximately 30 percent of the project.
- The project needs to be constructed in a single phase to ensure that all grading and planting work together as designed. By allowing the developer to construct the project, he will have control of the quality required to meet his mitigation requirements. These requirements will meet or exceed the quality needed for the Hiteon Creek Riparian Enhancement project.
- Because developers often have existing relationships with construction companies, lower construction costs are possible.
- Savings are also realized since the developer will not have the expense of administering a formal public bid process and simplified construction documents will be adequate for construction.



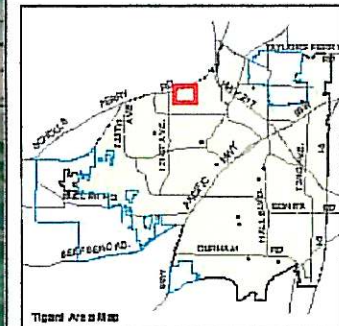


CITY OF TIGARD  
GEOGRAPHIC INFORMATION SYSTEM

## VICINITY MAP

Hiteon Creek Riparian  
Enhancement Project

## Attachment 2



N

0 100 200 300 Feet

T=267 met



Information on this map is for general location only and  
should be verified with the Development Services Division.  
13126 SW Hall Blvd  
Tigard, OR 97223  
(503) 639-4111  
<http://www.cityof Tigard.or.us>